



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## Freedom of Information Publication Coversheet

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

FOI Reference: CMTEDDFOI 2022-398

| Information to be published                       | Status    |
|---|-----------|
| 1. Access application                             | Published |
| 2. Decision notice                                | Published |
| 3. Documents and schedule                         | Published |
| 4. Additional information identified              | No        |
| 5. Fees   | N/A       |
| 6. Processing time (in working days)              | 55        |
| 7. Decision made by Ombudsman                     | N/A       |
| 8. Additional information identified by Ombudsman | N/A       |
| 9. Decision made by ACAT                          | N/A       |
| 10. Additional information identified by ACAT     | N/A       |

**From:** [REDACTED]  
**To:** [CMTEDD FOI](#)  
**Subject:** FOI Request for BRT-CMTEDDFOI 2022-398  
**Date:** Wednesday, 14 December 2022 10:46:17 AM  
**Attachments:** [image001.png](#)

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Hi CMTEDD FOI team,

I would like to request the following, documents attachments and correspondence relating to the Better Regulation Taskforce Discovery report (Since January 2021 to January 2022):

- All action items and correspondence sent to responsible teams and directorates concerning the Better Regulation Taskforce Discovery report streams.
- All internal communication between the Better Regulation Taskforce concerning implementing streams and recommendations.
- All correspondence between the Ministers office and government members about implementing streams from the Better Regulation Taskforce Discovery report.
- All correspondence between the Ministers office and the Better Regulation Taskforce about implementing streams from the Discovery report.

[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

Our ref: CMTEDDFOI2022-398



Dear 

## **FREEDOM OF INFORMATION REQUEST**

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 14 December 2022.

Specifically, you are seeking "*Documents attachments and correspondence relating to the Better Regulation Taskforce Discovery report (Since January 2021 to January 2022):*

- *All briefings recommendations sent to other teams and directorates regarding the Better Regulation Taskforce Discovery report.*
- *All correspondence from those teams or directorates responding to the briefings or release of the Better Regulation Taskforce Discovery report.*
- *A first draft of the Better Regulation Taskforce Discovery report and comments received by the Ministers office, Head of service and head of the Better Regulation Taskforce or any other Minister (including Ministers office).*
- *All correspondence between the Ministers office and the Better Regulation Taskforce about implementing streams from the Discovery report."*

From discussions with your office, it was agreed that release of some documents that are dated outside of January 2022 will be accepted as part of this access application.

### **Authority**

I am an Information Officer appointed by the Director-General under section 18 of the Act to deal with access applications made under Part 5 of the Act.

### **Timeframes**

In accordance with section 40 of the Act, CMTEDD was required to provide a decision on your access application by 16 January 2023. Following a brief suspension while the scope was clarified and an extension of 15 working days agreed by your office, the due date was changed to 3 February 2023. A further two extensions of time were granted with a due date finalised as 7 March 2023.

## **Decision on access**

Searches were completed for relevant documents and 129 documents were identified that fall within the scope of your request.

I have included as **Attachment A** to this decision the schedule of relevant documents. This provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

I have decided to grant access in full to 44 documents relevant to your request. I have decided to grant partial access to 32 documents as I consider them to contain information that is:

- contrary to the public interest information under schedule 1; and/or
- information that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act.

I have refused access to 47 documents as they are considered contrary to the public interest information under schedule 1.

Information contained within the documents that is out of scope to this request has also been redacted. Six documents have also been removed as they were duplicates.

My access decisions are detailed further in the following statement of reasons, in accordance with section 54(2) of the Act, and the documents released to you are provided as **Attachment B** to this letter.

## **Statement of Reasons**

In reaching my access decisions, I have taken the following into account:

- the Act,
- the content of the documents that fall within the scope of your request,
- the *Human Rights Act 2004*.

## **Exemption claimed**

My reasons for deciding not to grant access to the identified documents and components of these documents are as follows:

### Contrary to the public interest information under schedule 1 of the Act

Folios 77 to 123 of the identified documents are entirely composed of information that is considered to be contrary to the public interest under schedule 1 of the Act.

In addition, several other folios contain some information that is considered to be contrary to the public interest under schedule 1 of the Act. Where it is possible, this information has been redacted, to satisfy section 50 of the Act.

All the documents referred above are, or contain information that is, considered contrary to the public interest, as they have been developed for Cabinet or concern deliberations of Cabinet.

Much of this information was developed for consideration by Cabinet or committees of Cabinet including the Expenditure Review Committee which is a committee of Cabinet responsible for examining all proposals considering the Government's overall fiscal strategy, advising Cabinet on Budget spending priorities and initiating reviews of individual ongoing programs.

This information is considered to be contrary to the public interest under section 1.6 of schedule 1 of the Act and therefore has been withheld from release. The primary purpose of the 'cabinet exemption' is to maintain the confidentiality of the cabinet process and to uphold the principle of collective ministerial responsibility. This was discussed in *The Commonwealth v Northern Land Council* [1993] HCA 24; (1993) 176 CLR 604 (21 April 1993). Paragraph 6 of the decision, states that:

... it has never been doubted that it is in the public interest that the deliberations of Cabinet should remain confidential in order that the members of Cabinet may exchange differing views and at the same time maintain the principle of collective responsibility for any decision which may be made.

In reviewing the documents, I consider they contain information which has been developed as part of the Cabinet consideration process (s 1.6(1)(a)) or is directly related to the deliberation and considerations of Cabinet (s 1.6(1)(d)). I am satisfied that release of this information would disclose information which has not been 'officially disclosed' and in making this decision, I note the decision of Deputy President Forgie in *Re Toomer and Department of Agriculture, Fisheries and Forestry and Ors* [2003] AATA 1301 who stated:

.... deliberations are its thinking processes, be they directed to gathering information, analysing information or discussing strategies. They remain its deliberations whether or not a decision is reached. [Cabinet's] decisions are its conclusions as to the courses of action that it adopts be, they conclusions as to its final strategy on a matter or, its conclusions as to the manner in which a matter is to proceed.

Folio 48 contains information that is considered to be contrary to the public interest under Schedule 1 of the Act. This document contains information specific to:

### *1.2 Information subject to legal professional privilege*

*Information that would be privileged from production or admission into evidence in a legal proceeding on the ground of legal professional privilege.*

Taking into consideration the remaining information contained in the documents found to be within the scope of your request, I have identified that the following public interest factors are relevant to determine if release of the remaining information contained within these documents is within the 'public interest'.

Information that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act

What is the 'Public Interest'?

The Act has a presumption in favour of disclosure. As a decision maker I am required to decide where, on balance, public interest lies. As part of this process, I must consider factors favouring disclosure and non-disclosure.

In *Hogan v Hinch* (2011) 243 CLR 506, [31] French CJ stated that when 'used in a statute, the term [public interest] derives its content from "the subject matter and the scope and purpose" of the enactment in which it [public interest] appears'. Section 17(1) of the Act sets out the test, to be applied to determine whether disclosure of information would be contrary to the public interest. These factors are found in subsection 17(2) and schedule 2 of the Act.

Factors favouring disclosure in the public interest:

- (a) *disclosure of the information could reasonably be expected to do any of the following:*
- (i) *promote open discussion of public affairs and enhance the government's accountability.*
  - (ii) *contribute to positive and informed debate on important issues or matters of public interest.*
  - (vii) *reveal the reason for a government decision and any background or contextual information that informed the decision.*

Information concerning business regulation for the Territory is reasonably expected to be in the public interest and disclosure would or could promote discussion and contribute to positive and informed debate.

Additionally, the disclosure of information that includes discussion about the development of the Better Regulation Taskforce Discovery Report within Government and the decisions surrounding the report could assist the public to understand the development of the report and provide background for government decisions. As such, I give these factors significant weight.

Factors favouring nondisclosure in the public interest:

- (a) *disclosure of the information could reasonably be expected to do any of the following:*
- (ii) *prejudice the protection of an individual's right to privacy or any other right under the Human Rights Act 2004.*

Having reviewed the information, I consider that the protection of an individual's right to privacy, is a significant factor. Release of information concerning individuals working within the ACT Public Service is generally not considered to prejudice the protection of an individual's right to privacy. However, where mobile phone numbers may be used for home and work purposes, this information is redacted, as it could or would reasonably be expected to prejudice an individual's right to privacy under the *Human Rights Act 2004*.

Having applied the test outlined in section 17 of the Act and deciding that release of some personal information contained in the documents is not in the public interest to release, I have chosen to redact this specific information in accordance with section 50(2).

Noting the pro-disclosure intent of the Act, I am satisfied that redacting only the information that I believe is not in the public interest to release will ensure that the intent

of the Act is met and will provide you with access to the majority of the information held by CMTEDD within the scope of your request.

### **Charges**

Fees for this access application have been waived under section 107 (e) of the FOI Act.

### **Online publishing – Disclosure Log**

Under section 28 of the Act, CMTEDD maintains an online record of access applications. Your original access application, my decision and documents released to you in response to your access application will be published on the CMTEDD disclosure log after **10 March 2023**. Your personal contact details will not be published.

You may view CMTEDD disclosure log at <https://www.cmtedd.act.gov.au/functions/foi>

### **Ombudsman Review**

You have the right to seek Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in CMTEDD disclosure log, or a longer period as allowed by the Ombudsman.

We recommend using this form [Applying for an Ombudsman Review](#) to ensure you provide all of the required information. Alternatively, you may write to the Ombudsman:

The ACT Ombudsman  
GPO Box 442  
CANBERRA ACT 2601

Via email: [actfoi@ombudsman.gov.au](mailto:actfoi@ombudsman.gov.au)

### **ACT Civil and Administrative Tribunal (ACAT) Review**

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal  
Level 4, 1 Moore St  
GPO Box 370  
Canberra City ACT 2601  
Telephone: (02) 6207 1740  
<http://www.acat.act.gov.au/>

Should you have any queries in relation to your request please contact me by telephone on 6207 7754 or email [CMTEDDFOI@act.gov.au](mailto:CMTEDDFOI@act.gov.au).

Yours sincerely,



Emma Hotham  
Information Officer

Information Access Team  
Chief Minister, Treasury and Economic Development Directorate

7 March 2023





**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## FREEDOM OF INFORMATION REQUEST SCHEDULE

| WHAT ARE THE PARAMETERS OF THE REQUEST  |  | Reference NO.     |
|---|--|-------------------|
| <ul style="list-style-type: none"> <li>All briefings recommendations sent to other teams and directorates regarding the Better Regulation Taskforce Discovery report.</li> <li>All correspondence from those teams or directorates responding to the briefings or release of the Better Regulation Taskforce Discovery report.</li> <li>A first draft of the Better Regulation Taskforce Discovery report and comments received by the Ministers office, Head of service and head of the Better Regulation Taskforce or any other Minister (including Ministers office).</li> </ul> |  | CMTEDDFOI2022-398 |

| Ref No | Page number | Description   | Date | Status  | Reason for Exemption | Online Release Status |
|--------|-------------|---|------|---------|----------------------|-----------------------|
| 1      | 1           | 1. AC input - BRT to AC 11 March 2022   | 2022 | Partial | Sch1 1.6             | yes                   |
| 2      | 2           | 3. Agenda and Pack - Minister Cheyne - BRT Briefing - 15 Feb 22   | 2022 | Partial | Sch 2.2(a)(ii)       | yes                   |
| 3      | 3-24        | 3a. Agenda and Pack - Cheyne - BRT Briefing - 15 Feb 22   | 2022 | Partial | Sch1 1.6             | yes                   |
| 4      | 25          | 4. Better Reg Work program DRAFT - email to MO with updated BRT workstreams                               | 2022 | Full    |                      | yes                   |
| 5      | 26          | 4a. Better Reg Work program DRAFT   | 2022 | Full    |                      | yes                   |
| 6      | 27          | 7. Chesworth_ Fiona shared _Discovery Phase Report _ with you_- SOG A BRT to multiple 10 March 2022       | 2022 | Full    |                      | yes                   |
| 7      | 28-29       | 8. comments on the draft discovery paper AC to BRT 2 March 2022   | 2022 | Full    |                      | yes                   |
| 8      | 30          | 12. Discovery Report and Measure Snapshots - BRT EBM to Multiple 10 March 2022                            | 2022 | Partial | Sch1 1.6             | yes                   |
| 9      | 31          | 13. Feedback from Kathy Leigh on Discovery Report   | 2022 | Full    |                      | yes                   |
| 10     | 32-33       | 14. FOR COMMENT Better Regulation Taskforce - Work program - Sam Engele circulating to other directorates | 2022 | Partial | Sch 2.2(a)(ii)       | yes                   |
| 11     | 34-35       | 14a. Attachment A - BRT Suggested Work Program for 2022   | 2022 | Full    |                      | yes                   |
| 12     | 36-49       | 14b. Attachment B - Supporting Analysis for Reform Packages   | 2022 | Partial | Sch1 1.6             | yes                   |

|    |        |   |      |         |                          |     |
|----|--------|---|------|---------|--------------------------|-----|
| 13 | 50-52  | 15. For testing redrafted BRT program - email to MO for advice before the Discovery Report                      | 2022 | Full    |                          | yes |
| 14 | 53-54  | 15a. Workstreams BRT  | 2022 | Full    |                          | yes |
| 15 | 55-57  | 16. For the meeting with Kathy on the Draft Discovery Report - Head of BRT to HoS EA 2 March 2022               | 2022 | Partial | Sch1 1.6                 | yes |
| 16 | 58-59  | 19. FW Chesworth, Fiona shared Draft Discovery Phase Report with you - link to draft report                     | 2022 | Full    |                          | yes |
| 17 | 60     | 24. FW Draft Discovery Report - to MO   | 2022 | Full    |                          | yes |
| 18 | 61-62  | 27. FW reg perf work stream DC attempt - further email from Access Canberra                                     | 2022 | Partial | Sch 2.2(a)(ii)           | yes |
| 19 | 63-64  | 28. FW TO NOTE Workstreams BRT updated  | 2022 | Partial | Sch 2.2(a)(ii)           | yes |
| 20 | 65-66  | 28a. Workstreams BRT  | 2022 | Full    |                          | yes |
| 21 | 67     | 29. FW Workstreams BRT updated - BRT to AC 18 February 2022   | 2022 | Full    |                          | yes |
| 22 | 68-69  | 29a. Workstreams BRT  | 2022 | Full    |                          | yes |
| 23 | 70-73  | 30. FW Chesworth Fiona shared Discovery Phase Report with you- PACT BRT 11 March 2022(2)                        | 2022 | Full    |                          | yes |
| 24 | 74-77  | 31. FW Chesworth Fiona shared Discovery Phase Report with you- PACT BRT 11 March 2022                           | 2022 | Full    |                          | yes |
| 25 | 78-79  | 32. FW comments on the principles AC to BRT 11 March 2022   | 2022 | Partial | Sch 2.2(a)(ii)           | yes |
| 26 | 80-82  | 34. FW INPUT SOUGHT - Draft Discovery Report - PLANNING to BRT 8 March 2022                                     | 2022 | Partial | Sch1 1.6                 | yes |
| 27 | 83-86  | 35. FW_Brief - BBR - Agreement to circulate Cabinet Submission ~ SOG A BRT to EBM and Head of BRT 16 March 2022 | 2022 | Partial | Sch 2.2(a)(ii), Sch1 1.6 | yes |
| 28 | 87     | 35a. page 30 paras  | 2022 | Full    |                          | yes |
| 29 | 88-89  | 36. FW_FOR COMMENT_ Better Regulation Taskforce - Work program CSD to Head of BRT 15 February 2022              | 2022 | Partial | Sch 2.2(a)(ii)           | yes |
| 30 | 90-91  | 36a. Attachment A - BRT Suggested Work Program for 2022   | 2022 | Full    |                          | yes |
| 31 | 92-105 | 36b. Attachment B - Supporting Analysis for Reform Packages   | 2022 | Partial | Sch1 1.6                 | yes |

|    |         |  |      |         |                                     |     |
|----|---------|--|------|---------|-------------------------------------|-----|
| 32 | 106     | 39. FYI - Cheyne meeting notes - Head of BRT to DDG AC and DDG ED<br>3 November 2021                           | 2022 | Partial | Sch 2.2(a)(ii)                      | yes |
| 33 | 107-109 | 39a. Agenda and Papers - Cheyne Briefing - BRT - 2 Nov 2021  | 2022 | Partial | Sch1 1.6                            | yes |
| 34 | 110-111 | 40. Great work on the discovery report - Head BRT to EBM BRT 28<br>February 2022                               | 2022 | Partial | Sch 2.2(a)(ii)                      | yes |
| 35 | 112     | 41. Identifying and Evaluating Regulation Reforms - Productivity<br>Commission Head of BRT to BRT 28 Oct 2021  | 2022 | Partial | Sch 2.2(a)(ii)                      | yes |
| 36 | 113     | 42. INPUT SOUGHT - Draft Discovery Report - circulation to other<br>directorates                               | 2022 | Partial | Sch1 1.6                            | yes |
| 37 | 114     | 44. Meeting with AC - 22 Feb 22  | 2022 | Full    |                                     | yes |
| 38 | 115-116 | 44a. Meeting with AC - 22 Feb 22   | 2022 | Partial | Sch1 1.6                            | yes |
| 39 | 117     | 46. Proposal - Engagement Team_ - Draft AC proposal brief  | 2022 | Full    |                                     | yes |
| 40 | 118-119 | 51. RE Brief - BBR - Agreement to circulate Cabinet ~ Minister Cheyne<br>s comments on cabsub and draft report | 2022 | Partial | Sch1 1.6, Sch 2.2(a)(ii)            | yes |
| 41 | 120     | 51a. page 30 paras (Minister Cheyne s comments on cabsub and draft<br>report)                                  | 2022 | Full    |                                     | yes |
| 42 | 121-123 | 53. RE Draft Discovery Report  | 2022 | Partial | Sch1 1.6                            | yes |
| 43 | 124     | 55. RE reg perf work stream DC attempt - AC further amendments to<br>BRT workstream                            | 2022 | Full    |                                     | yes |
| 44 | 125     | 55a. reg perf work stream DC attempt (002)   | 2022 | Full    |                                     | yes |
| 45 | 126-129 | 56. RE TO NOTE Better Regulation Taskforce - Work program -<br>seeking comments                                | 2022 | Partial | Sch 2.2(a)(ii)                      | yes |
| 46 | 130-131 | 61. RE Discovery Report and Measure Snapshots PLANNING to BRT 11<br>March 2022                                 | 2022 | Partial | Sch1 1.6, Sch 2.2(a)(ii)            | yes |
| 47 | 132-133 | 62. RE Proposal - business support AC to BRT 2 March 2022  | 2022 | Full    |                                     | yes |
| 48 | 134-136 | 63. RE_ Better Regulation Taskforce - Work program and AMR CoS to<br>Head of BRT 14 February 2022              | 2022 | Partial | Sch1 1.6, Sch 1 1.2, Sch 2.2(a)(ii) | yes |
| 49 | 137-138 | 66. RE_ DR Package - update - EBM to Head BRT 10 March 2022  | 2022 | Partial | Sch1 1.6                            | yes |
| 50 | 139-140 | 67. RE_ FOR COMMENT_ Better Regulation Taskforce - Work program<br>OIE to Head of BRT 28 Feb 2022              | 2022 | Partial | Sch 2.2(a)(ii)                      | yes |

|    |         |   |      |         |          |     |
|----|---------|---|------|---------|----------|-----|
| 51 | 141     | 69. reg perf work stream DC attempt - AC amendments to BRT workstream                           | 2022 | Full    |          | yes |
| 52 | 142     | 70. Regulatory Performance stream - BRT Work Program - updated                                  | 2022 | Full    |          | yes |
| 53 | 143     | 70a. reg perf work stream DC attempt  | 2022 | Full    |          | yes |
| 54 | 144-145 | 71. Summary of AC ED feedback on BRT - to MO  | 2022 | Full    |          | yes |
| 55 | 146     | 73. Weekly meeting - discovery report - Head of BRT to Leanne Power - 10 March 2022             | 2022 | Full    |          | yes |
| 56 | 147     | 73a. Weekly meeting - discovery report  | 2022 | Partial | Sch1 1.6 | yes |
| 57 | 148     | 74. Workstreams BRT updated - email to MO with BRT workstreams                                  | 2022 | Full    |          | yes |
| 58 | 149-50  | 74a. Workstreams BRT  | 2022 | Full    |          | yes |
| 59 | 151-198 | 2. Attach A - Discovery Phase Report - comments from head of BRT 10 March 2022                  | 2022 | Full    |          | yes |
| 60 | 199     | 5. Better Reg Work program DRAFT - 23 Feb 2022 (2)  | 2022 | Full    |          | yes |
| 61 | 200-203 | 6. Better Reg Work program DRAFT 24 02 22 - with AC edits                                       | 2022 | Full    |          | yes |
| 62 | 204-239 | 14. Discovery Phase Report - comments from head of BRT - 28 Feb 2022                            | 2022 | Full    |          | yes |
| 63 | 240-290 | 15. Discovery Phase Report 10 March 2022  | 2022 | Full    |          | yes |
| 64 | 291-325 | 16. Draft Discovery Phase Report  | 2022 | Full    |          | yes |
| 65 | 326     | 21. reg perf work stream DC attempt - 23 Feb 2022   | 2022 | Full    |          | yes |
| 66 | 327     | 22. reg perf work stream DC attempt (002)   | 2022 | Full    |          | yes |
| 67 | 328     | 23. reg perf work stream DC attempt   | 2022 | Full    |          | yes |
| 68 | 329-342 | 26. Supporting Analysis for Reform Packages - BRT Suggested Work Program for 2022 - 14 Feb 2022 | 2022 | Partial | Sch1 1.6 | yes |
| 69 | 343-344 | 28. WIRE - CM21-71348 BRT update - for discussion 2 November 2021                               | 2022 | Partial | Sch1 1.6 | yes |
| 70 | 345-347 | 29. WIRE - CM22-3087 BRT update - in lieu of 18 January 2022 meeting                            | 2022 | Full    |          | yes |

|    |         |   |      |         |          |     |
|----|---------|---|------|---------|----------|-----|
| 71 | 348-349 | 31. WIRE - CM22-42363 BRT update - for discussion 29 March 2022   | 2022 | Full    |          | yes |
| 72 | 350-351 | 32. WIRE - CM22-47203 BRT Update - for discussion 12 April 2022   | 2022 | Partial | Sch1 1.6 | yes |
| 73 | 352     | 33. WIRE – CM22-54296 BRT Update – for discussion 10 May 2022   | 2022 | Partial | Sch1 1.6 |     |
| 74 | 353-354 | 35. Workstreams BRT - 17 February 2022 (2)  | 2022 | Full    |          | yes |
| 75 | 355-356 | 36. Workstreams BRT - 17 February 2022  | 2022 | Full    |          | yes |
| 76 | 357-358 | 37. Workstreams BRT 18 Feb 2022   | 2022 | Full    |          | yes |
| 77 | n/a     | 2. Access Canberra Comments 22 191 Better Regulation Report - ~ AC amendments to cab sub recommendations (2)      |      | Exempt  | Sch1 1.6 |     |
| 78 | n/a     | 5. Better Regulation Report – Discovery Phase_ Analysis and Forward Work Program - BRT to JACS 23 March 2022      |      | Exempt  | Sch1 1.6 |     |
| 79 | n/a     | 6. BRT - Updated Discovery Report - COS to BRT 13 May 2022  |      | Exempt  | Sch1 1.6 |     |
| 80 | n/a     | 9. Confirming timelines for ~ report on circulation, requesting review of financial impacts of Cabinet Submission |      | Exempt  | Sch1 1.6 |     |
| 81 | n/a     | 10. Discovery Report - BRT to CoS 29 March 2022   |      | Exempt  | Sch1 1.6 |     |
| 82 | n/a     | 11. Discovery Report - CoS to BRT 29 March 2022   |      | Exempt  | Sch1 1.6 |     |
| 83 | n/a     | 17. FW alignment of business supports - AC ED feedback on Cabinet Submission                                      |      | Exempt  | Sch1 1.6 |     |
| 84 | n/a     | 18. FW Better Reg agenda - wording updates - to report s infographic  |      | Exempt  | Sch1 1.6 |     |
| 85 | n/a     | 18a. Better Reg Agenda Infographic - final version  |      | Exempt  | Sch1 1.6 |     |
| 86 | n/a     | 20. FW CiC Access Canberra COVID resourcing - AC to MO about COVID resourcing submission                          |      | Exempt  | Sch1 1.6 |     |
| 87 | n/a     | 21. FW Comments on cab sub - AC and Office for Women  |      | Exempt  | Sch1 1.6 |     |
| 88 | n/a     | 22. FW Confirming timelines for dependent business cases - Better Regulation Report                               |      | Exempt  | Sch1 1.6 |     |
| 89 | n/a     | 23. FW Discovery Report and Measure Snapshots - DDTS comments   |      | Exempt  | Sch1 1.6 |     |
| 90 | n/a     | 25. FW FYI Exposure Circulation 22 191 Better Regulation Report – Discovery Phase, Analysis ~ Treasury comments   |      | Exempt  | Sch1 1.6 |     |

|     |     |   |  |        |          |  |
|-----|-----|---|--|--------|----------|--|
| 91  | n/a | 26. FW FYI Exposure Circulation 22 191 Better Regulation Report – Discovery Phase, Analysis and ~ PACT comments |  | Exempt | Sch1 1.6 |  |
| 92  | n/a | 30a. Measure Snapshots - attachment to sub  |  | Exempt | Sch1 1.6 |  |
| 93  | n/a | 33. FW FINAL - CAB 22191 - Better Regulation Report Discovery Phase Analysis and ~ JACS to BRT 5 April 2022     |  | Exempt | Sch1 1.6 |  |
| 94  | n/a | 37. FW_ Matthews_ Catherine shared _Cabinet Meeting Brief - 22_191 Better Regulation ~ AC to BRT 28 April 2022  |  | Exempt | Sch1 1.6 |  |
| 95  | n/a | 38. Fwd Better Regulation Report - items that intersect with ~ ED amendment to Cabinet Submission about report  |  | Exempt | Sch1 1.6 |  |
| 96  | n/a | 43. JACS Comments - SOGA BRT to EBM BRT 27 March 2022   |  | Exempt | Sch1 1.6 |  |
| 97  | n/a | 45. Minor change to Discovery Report - BRT to CoS 24 May 2022   |  | Exempt | Sch1 1.6 |  |
| 98  | n/a | 46a. Proposal - Engagement Team   |  | Exempt | Sch1 1.6 |  |
| 99  | n/a | 47. RE alignment of business supports - ED business case items relating to BRT recommendations                  |  | Exempt | Sch1 1.6 |  |
| 100 | n/a | 48. RE Better Regulation Report - ~ email for the key proposals BRT is seeking Cabinet approval for in report   |  | Exempt | Sch1 1.6 |  |
| 101 | n/a | 49. RE Better Regulation Report - items that intersect with ~ Treasury fine with amended wording for submission |  | Exempt | Sch1 1.6 |  |
| 102 | n/a | 50. RE Better Regulation Report - items that intersect with economic Development - Comms response               |  | Exempt | Sch1 1.6 |  |
| 103 | n/a | 52. RE Confirming timelines for dependent business cases - ~ AC asking if Ministerially endorsed by Treasury    |  | Exempt | Sch1 1.6 |  |
| 104 | n/a | 54. RE HPE Content Manager CMTEDD - Brief Container CMTEDD2022 1498 GOVERNMENT & STAKEHOLDER ~ CDO comments     |  | Exempt | Sch1 1.6 |  |
| 105 | n/a | 64. RE_ BRT - Updated Discovery Report - provision of DR to MO 13 May 2022                                      |  | Exempt | Sch1 1.6 |  |
| 106 | n/a | 65. RE_ Business Case re websites - BRT to COMMS 7 March 2022   |  | Exempt | Sch1 1.6 |  |
| 107 | n/a | 68. RE_ Link to cab Sub - BRT to FABG 11 March 2022   |  | Exempt | Sch1 1.6 |  |
| 108 | n/a | 72. Taxi industry - covid impacts - BRT to TCCS 05 April 2022   |  | Exempt | Sch1 1.6 |  |
| 109 | n/a | 3. Attachment A - Better Regulation Agenda Infographics   |  | Exempt | Sch1 1.6 |  |

|     |     |  |  |        |            |  |
|-----|-----|--|--|--------|------------|--|
| 110 | n/a | 4. Attachment B - Internal Stakeholder List  |  | Exempt | Sch1 1.6   |  |
| 111 | n/a | 7. Better Regulation Agenda 2-year workplan infographic - updated 11 May 2022  |  | Exempt | Sch1 1.6   |  |
| 112 | n/a | 8. Better Regulation Report - MO tracked changes 13 May 2022   |  | Exempt | Sch1 1.6   |  |
| 113 | n/a | 9. Better Regulation Report - tco 23 may   |  | Exempt | Sch1 1.6   |  |
| 114 | n/a | 10. Better Regulation Report - tracked changes - 11 May 2022   |  | Exempt | Sch1 1.6   |  |
| 115 | n/a | 12. CABINET Better Reg Agenda Infographic - final version  |  | Exempt | Sch1 1.6   |  |
| 116 | n/a | 13. Cabinet Meeting Brief - 22_191 Better Regulation Report - Discovery Phase, Analysis and Forward Work ~ 28 April 2022 |  | Exempt | Sch1 1.6   |  |
| 117 | n/a | 17. Measure Snapshots - attachment to sub (Email Ref CM23 7384)  |  | Exempt | Sch1 1.6   |  |
| 118 | n/a | 24. Strategic Board - 6 April 2022 - Better Regulation Report  |  | Exempt | Sch1 1.6   |  |
| 119 | n/a | 25. Strategic Board Paper - 6 April 2022 - Better Regulation Report  |  | Exempt | Sch1 1.6   |  |
| 120 | n/a | Discovery Report and Measure Snapshots - BRT to FABG 11 March 2022   |  | Exempt | Sch1 1.6   |  |
| 121 | n/a | email exchange between BRT/TSY on language in Report/Cab Sub   |  | Exempt | Sch1 1.6   |  |
| 122 | n/a | RE: alignment of business supports - ED business case items relating to BRT recommendations                              |  | Exempt | Sch1 1.6   |  |
| 123 | n/a | Access Canberra Comments: 22/191 Better Regulation Report - Discovery Phase, Analysis and Forward Work Program           |  | Exempt | Sch1 1.6   |  |
| 124 | n/a | 11. BRT Suggested Work Program for 2022  |  |        | DUPLICATES |  |
| 125 | n/a | 1. Agenda and Pack - Cheyne - BRT Briefing - 15 Feb 22   |  |        | DUPLICATES |  |
| 126 | n/a | 18. Meeting with AC - 22 Feb 22  |  |        | DUPLICATES |  |
| 127 | n/a | 19. Minister Cheyne s comments on cabsub and draft report - Attachment - Email CM23 2815                                 |  |        | DUPLICATES |  |
| 128 | n/a | 27. Weekly meeting - discovery report (Email Ref CM23 7891)  |  |        | DUPLICATES |  |
| 129 | n/a | 30. WIRE - CM22-5926 BRT update - for discussion 31 January 2022 - Do not use  |  |        | DUPLICATES |  |





## Stuart, Katharine

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**From:** Chesworth, Fiona  
**Sent:** Friday, 11 March 2022 9:38 AM  
**To:** Rynehart, Josh  
**Cc:** Springett, Emily; Clapham, David; Wilkie, Rachel  
**Subject:** AC input

**Categories:** FOI

OFFICIAL: Sensitive

Hi Josh

Thanks for your call right now and I am glad to hear that you think a better balance has been struck in the report re the value of regulation (noting you are yet to read it all).

As discussed just now, specific areas for you to look at are:

(i) Discovery Report – Framing of the agenda is key – are you comfortable with the diagram and text. Also if there was anything for future potential reforms (p 24) that would be helpful as its looking a little light on. David and I would like to put in the Regulatory powers concept as we think this has significant merit

Sch 1 1.6

Also David spoke yesterday with Tsy. Sch 1 1.6

Cheers  
Fiona

Fiona Chesworth | Senior Director  
Better Regulation Taskforce  
Policy and Cabinet Division | 620 71125  
Chief Ministers, Treasury and Economic Development Directorate | ACT Government  
GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)



I acknowledge the traditional custodians of the ACT the Ngunnawal people, and their continuing connection to land and community. I pay my respect to them, and to the Elders both past and present.



## Stuart, Katharine

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**From:** Potter, Morgan on behalf of ACDLO  
**Sent:** Friday, 11 February 2022 1:53 PM  
**To:** Engele, Sam; Clapham, David; Chesworth, Fiona; Wilkie, Rachel  
**Cc:** Better Regulation Taskforce  
**Subject:** Agenda and Pack - Minister Cheyne - BRT Briefing - 15 Feb 22  
**Attachments:** Agenda and Pack - Cheyne - BRT Briefing - 15 Feb 22.pdf

OFFICIAL

Good afternoon,

Please find attached agenda and papers for the Minister meeting with BRT.

**Morgan Potter** | Directorate Liaison Officer | Access Canberra

Phone: [Sch 2.2\(a\)\(ii\)](#) | Email: [acdlo@act.gov.au](mailto:acdlo@act.gov.au)

**Chief Minister Treasury and Economic Development Directorate** | ACT Government

GPO Box 158, Canberra ACT 2601 | [www.accesscanberra.act.gov.au](http://www.accesscanberra.act.gov.au)

Minister for Business and Better Regulation  
Minister for Consumer Affairs  
Minister for Planning and Land Management

**Minister Cheyne: Briefing with Better Regulation Taskforce**

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**Date: Tuesday, 15 February 2022**

**Time: 12:00 – 12:30 pm**

**Venue: Webex**

**Apologies:**

| <b>Business and Better Regulation – Better Regulation Taskforce</b> |                            |                     |                             |
|---|----------------------------|---------------------|-----------------------------|
| <b>Item</b>   |                            | <b>Requested by</b> | <b>Action Officers</b>      |
| 1.  | Out of Scope<br>[Redacted] | [Redacted]          | [Redacted]                  |
| 2.  | Out of Scope<br>[Redacted] | [Redacted]          | [Redacted]                  |
| 3.  | Discover Report Discussion | BRT                 | Sam Engele<br>Rachel Wilkie |

**Next Meeting: Tuesday 1 March 2022**



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

**BETTER REGULATION TASKFORCE**

# Out of Scope

Out of Scope

# Out of Scope

## DISCOVERY REPORT

- Attached for discussion are two documents:
  - *Suggested Work Program for 2022 and Discovery Report Timeline*
  - *Supporting Analysis for Reform Packages*
- Taking into account what we have heard from our engagements, a jurisdictional analysis and the results of Phase 1 of the Legislation Review, we have collated a comprehensive list of possible reform measures which could be taken forward.
  - As you might expect, the measures range from small ‘quick fixes’ to some very large sectoral wide initiatives and everything in between.
- Where we have been able to identify a unifying idea or theme, we have brought a number of the measures together into reform packages.
- There are six potential reform packages and these are identified in Table A of the attachment entitled *Supporting Analysis for Reform Packages*.
  - Tables B and C in this Attachment then list every single measure we have identified and categorised them as either less complex or more complex respectively. We also note where these single measures could be part of a reform package.
- This approach opens the possibility of building a forward work program by selecting one reform package (say, for example, entertainment and night time economy) along with a number of stand-alone measures.

- We have modelled such an approach in the *Suggested Work Program for 2022 and Discovery Report Timeline* attachment.

**CABINET- DLM**

BRT Suggested Work Program for 2022

| Measure   | Complexity   | Theme  | BRT involvement                  | Other directorates and agencies                   | Timeframe   |
|---|--------------|--|----------------------------------|---|-------------|
| Business Sentiment Survey   | Less complex | Regulator Practice Continuous Improvement  | Lead                             | CMTEDD: Access Canberra, and Economic Development | < 12 months |
| Compliance checklist / factsheets for business                      | Less complex | Regulator Practice   | Lead                             | CMTEDD: Access Canberra, and policy owners        | < 12 months |
| Review of Local Industry Participation Policy                       | Less complex | Programs and Support for SMEs – Procurement                                      | Assist<br>*Specialist Capability | CMTEDD: Economic Development, PACT                | < 12 months |
| Model Rules for Incorporated Associations                           | Less complex | Continuous Improvement   | Lead                             | CMTEDD: Access Canberra JACS -- LPP               | <12 months  |
| Employment Agent Licensing *  | More complex | Continuous Improvement   | Lead                             | CMTEDD: Access Canberra JACS -- LPP               | < 12 months |
| Removal of reference to cheques in ACT laws*                        | More complex | Continuous Improvement<br><br>Simplification of Business-Government Interactions | Lead                             | Multiple  | < 12 months |
| Modernising Document Execution (Deeds and Statutory Declarations) * | More complex | Simplification of Business-Government Interactions                               | Lead                             | Multiple  | <12 months  |

\*current commitment



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| <b>Measure</b>  | <b>Complexity</b> | <b>Theme</b>  | <b>BRT involvement</b> | <b>Other directorates and agencies</b>  | <b>Timeframe</b> |
|---|-------------------|---|------------------------|---|------------------|
| Improving Labour Mobility – AMR *   | More complex      | Skilled workforce   | Lead                   | Multiple  | Ongoing          |
| Entertainment Economy & Night-time Economy                                | Reform Package    | Regulator Practice<br><br>Simplification of business government interactions.<br><br>Continuous Improvement | Lead                   | CMTEDD: Economic Development, Access Canberra, Environment Protection Authority, Treasury, EPSDD, JACS, Health, TCCS, CSD | >12 Months       |
| Continued learning and application of best practice regulation principles | Reform Package    | Continuous Improvement  | Learn                  | WhOG  | Ongoing          |

# Sch 1 1.6

Supporting Analysis for Reform

Table A – Possible Reform Packages

- These packages are multifaceted, high impact, engage a significant number of stakeholders, resource intensive and will require further cabinet processes through development and implementation.
- The reform packages parcel various measures from Table B and Table C which have a common reform idea or theme.

| Reform Package   | Theme(s)  | Other Ministers   | Stakeholder support                       | Best Practice Principle/s | Outcomes alignment | Leg Review |
|--|---|---|---|---------------------------|--------------------|------------|
| <b>Entertainment Economy</b> <ul style="list-style-type: none"> <li>• Liquor Act review</li> <li>• Environment Protection Regulatory Framework review</li> <li>• Mapping of approvals, licences, processes</li> <li>• Events approvals</li> <li>• Lease purpose clauses</li> <li>• Overlap/duplication with Cth</li> <li>• Security agents licensing framework</li> <li>• Review of RSA &amp; RTO training requirements</li> </ul> | Continuous Improvement<br><br>Simplification of Business-Government Interactions<br><br>Regulator Practice<br><br>Small business information and communications | The most relevant are:<br><br>Chief Minister<br><br>Minister for Economic Development<br><br>Minister for Tourism<br><br>Minister for Planning and Land Management<br><br>Minister for the Environment<br><br>Attorney-General<br><br>Minister for Transport and City Services<br><br>Minister for Sustainable Building and Construction<br><br>Minister for Gaming | Wide support but a highly contested space | 3,6,7,8                   | 1,3,4a             | Project #1 |
| <b>Modernising business communications:</b> <ul style="list-style-type: none"> <li>• References to cheques</li> <li>• Review for tech neutrality</li> <li>• Modernising document execution</li> </ul>  | Continuous Improvement<br><br>Simplification of Business-Government Interactions  | Attorney-General<br><br>Treasurer<br><br>Plus relevant portfolio ministers  | Unknown                                   | 3,5,6,7,8                 | 1,3,4b             | Project #3 |

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| Reform Package  | Theme(s)  | Other Ministers   | Stakeholder support                                    | <a href="#">Best Practice Principle/s</a> | <a href="#">Outcomes alignment</a> | <a href="#">Leg Review</a>   |
|---|---|---|--|---|------------------------------------|------------------------------|
| <b>Best Practice Procurement Framework</b> <ul style="list-style-type: none"> <li>Review of legislation</li> <li>Review of policies</li> <li>Measurement and evaluation</li> </ul>  | Programs and Support for SMES – Procurement   | Special Minister of State<br><br>Treasurer  | Wide Support   | 3,6,7                                     | 3,5                                | Project #2                   |
| <b>Improving regulator capability and performance</b> <ul style="list-style-type: none"> <li>Introduce obligation to actively manage regulation and to produce factsheets</li> <li>Business helpdesk/concierge</li> <li>Regulatory powers legislation</li> </ul>  | Small business information and communications Regulator Practice<br><br>Simplification of Government to Business interactions<br><br>Continuous Improvement | Regulatory powers legislations would impact on a number of ministerial portfolios | Wide Support   | 3,6,7,8                                   | 3                                  | Project #6                   |
| <b>Implementing Best Practice Regulation</b> <ul style="list-style-type: none"> <li>Best Practice Principles and toolkit</li> <li>Business survey</li> <li>Measure of burden</li> <li>Stock and flow management</li> <li>Evaluation</li> <li>Human centred design</li> <li>Keeping pace with tech advancements</li> </ul> | Continuous improvement<br><br>Small business information and communications<br><br>Regulator Practice   | All ministers   | Supported  | 3,4,5,6,7,8                               | 3,4a                               | Project #6<br><br>Project #5 |
| <b>Industry specific reviews:</b> <ul style="list-style-type: none"> <li>Motor vehicle repairers</li> <li>Employment agents</li> <li>ODTI</li> <li>Incorporated Associations</li> </ul>   | Skilled Workforce   | Treasurer<br><br>Minister for Consumer Affairs<br><br>Attorney- General           | Strong support for some measures<br>Unknown for others | Various                                   | 2,3                                | N/A                          |

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**Table B - Less complex measures**

- Can be delivered in 2022 Estimated timeframe for delivery 3-6 months for each measure
- No further Cabinet approval required for these measures
- These measures can be pursued as stand-alone reforms or they could form part of a suite of measures for a reform package

| Measure  | Theme  | Other Ministers  | Stakeholder support | Best Practice Principle/s | Outcomes alignment | Leg Review | Reform Package                                 |
|--|--|--|---------------------|---------------------------|--------------------|------------|--|
| Business Sentiment Survey  | Regulator Practice<br>Continuous Improvement | All  | Supported by CBC    | 3, 6                      | 3, 4 a and b.      | Project #5 | Implementing best practice regulation          |
| Compliance checklist/ factsheets for business  | Regulator Practice                           | Nil  | Wide support        | 5,6,7                     | 1, 3,4a.           | N/A        | Improving regulator capability and performance |
| Who does What in Access Canberra info-graphic  | Regulator Practice                           | Nil  | Supported           | 4,6,7                     | 3,4a               | N/A        | Improving regulator capability and performance |
| Review of Local Industry Participation Policy  | Programs and Support for SMES – Procurement  | Special Minister of State<br>Minister for Economic Development | Wide support        | 2,3,8                     | 3,5                | Project #2 | Best Practice Procurement Framework            |
| Review of RSA & RTO training requirements  | Continuous Improvement                       | Attorney-General   | Unknown             | 7,8                       | 3                  | Project #1 | Entertainment Economy                          |
| Review and reform process for notifying government entities of changes in club committees. | Regulator Practice<br>Continuous Improvement | Attorney-General   | Unknown             | 7,8                       | 3, 4a              | Project #1 |  |
| Model Rules for Incorporated Associations  |  |  |                     |                           |                    | N/A        | Industry specific reviews                      |

**CABINET - DLM**

**Table C - More complex measures**

- Can be delivered over 2022-2023. Timeframe for delivery generally exceeds 6 months due to complexity
- Cabinet approval may be required for some of these measures
- These measures can be pursued as stand-alone reforms or they can form part of a suite of measures for a reform package

| Measure  | Theme  | Further Cabinet Approval | Other Ministers  | Stakeholder support | Best Practice Principle/s | Outcomes alignment | Leg Review | Reform Package        |
|--|--|--------------------------|--|---------------------|---------------------------|--------------------|------------|-----------------------|
| Entertainment Economy Industry analysis - mapping approvals, licensing and reporting requirements    | Simplification of Business-Government Interactions   | Sch 1 18                 | Multiple   | Wide Support        | 3,6,7,8                   | 3,4a,5             | Project #1 | Entertainment Economy |
| Review of the Liquor Act (and liquor licensing fees)   | Continuous Improvement<br><br>Simplification of Business-Government Interactions<br><br>Regulator Practice |                          | Multiple   | Wide Support        | 3,6,7,8                   | 3,4a,5             | Project #1 | Entertainment Economy |
| Review of the Environment Protection Regulatory Framework as it relates to regulation of noise/sound | Continuous Improvement<br><br>Simplification of Business-Government Interactions<br><br>Regulator Practice |                          | Minister for Planning and Land Management,<br><br>Minister for the Environment | Supported           | 3,7                       | 3,4a               | Project #1 | Entertainment Economy |
| Review of Lease Purpose Clauses and the planning process/costs associated with varying a LPC         | Continuous Improvement   |                          | Minister for Gaming, Minister for Planning and Land Management                 | Supported           | 3,6,7                     | 5                  | Project #1 | Entertainment Economy |
| Reviewing requirements and process for application and renewal of security agent's licence           | Simplification of Business-Government Interactions   |                          | Minister for Consumer Affairs  | Supported           | 3,6,7                     | 1,3,4a             | Project #1 | Entertainment Economy |

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| Measure   | Theme  | Further Cabinet Approval | Other Ministers                            | Stakeholder support           | Best Practice Principle/s | Outcomes alignment | Leg Review | Reform Package                      |
|---|--|--------------------------|--|-------------------------------|---------------------------|--------------------|------------|-------------------------------------|
| Review the events approval process including legal, regulatory requirements, fees levied by ACT Government. | Continuous Improvement<br><br>Simplification of Business-Government Interactions<br><br>Regulator Practice | Sch 1.8                  | Minister for Planning and Land Management, | Wide Support                  | 3,6,7,8                   | 1,3,4a,5           | Project #1 | Entertainment Economy               |
| Review interactions with Commonwealth NCA requirements for events and tourism on National Land              | Simplification of Business-Government Interactions   |                          | Minister for Planning and Land Management  | Supported                     | 3,5,6,7,8                 | 4a                 | Project #1 | Entertainment Economy               |
| Removal of reference to cheques   | Continuous Improvement<br><br>Simplification of Business-Government Interactions                           |                          | Attorney-General<br><br>Treasurer          | Unknown – supported by AusPay | 6,7,8                     | 1,3                | Project #3 | Modernising Business Communications |
| Review of ACT statute book to ensure technology neutral legislation   | Continuous Improvement<br><br>Simplification of Business-Government Interactions                           |                          | All ministers                              | Unknown                       | 5                         | 4b                 | Project #3 | Modernising Business Communications |
| Modernising Document Execution (Stat decs and deeds)  | Continuous Improvement<br><br>Simplification of Business-Government Interactions                           |                          | Attorney-General                           | Unknown                       | 5                         | 4b                 | Project #3 | Modernising Business Communications |

**CABINET - DLM**

| Measure  | Theme   | Further Cabinet Approval | Other Ministers           | Stakeholder support | Best Practice Principle/s | Outcomes alignment | Leg Review | Reform Package                                 |
|--|---|--------------------------|---------------------------|---------------------|---------------------------|--------------------|------------|--|
| Review of Procurement Legislation  | Programs and Support for SMES – Procurement<br><br>Continuous Improvement | Sch 1, 1.6               | Special Minister of State | Wide Support        | 3,6,7                     | 3                  | Project #2 | Best Practice Procurement Framework            |
| Review of Procurement Policies and settings.   | Programs and Support for SMES – Procurement<br><br>Continuous Improvement |                          | Special Minister of State | Wide Support        | 3,6,7                     | 3                  | Project #2 | Best Practice Procurement Framework            |
| Procurement Measurement and Evaluation .   | Programs and Support for SMES – Procurement<br><br>Continuous Improvement |                          | Special Minister of State | Supported           | 3,6,7                     | 3                  | Project #2 | Best Practice Procurement Framework            |
| Statutory process for assessing performance of regulators                                    | Regulator Practice  |                          | Multiple                  | Unknown             | 4,5,8                     | 3, 4a              | Project #6 | Improving regulator capability and performance |
| Impose an obligation on regulators to actively manage the regulatory framework (stewardship) | Regulator Practice  |                          | Multiple                  | Unknown             | 4,5                       | 3, 4a              | Project #6 | Improving regulator capability and performance |
| Impose an obligation on regulators to issue factsheets and guidelines                        | Regulator Practice  |                          | Multiple                  | Wide Support        | 6,7,8                     | 3,4a               | Project #6 | Improving regulator capability and performance |
| Introduction of a standard suite of regulatory powers  | Regulator Practice  |                          | Multiple                  | Unknown             | 4,5,6,7,8                 | 3, 4a              | Project #6 | Improving regulator capability and performance |



**CABINET - DLM**

| Measure   | Theme  | Further Cabinet Approval | Other Ministers                                    | Stakeholder support                      | Best Practice Principle/s | Outcomes alignment | Leg Review               | Reform Package                                 |
|---|--|--------------------------|--|--|---------------------------|--------------------|--------------------------|--|
| Business Helpdesk Function (concierge service and/or case manager approach)     | Small business information and communications<br><br>Simplification of Government to Business interactions | Sch 1.19                 | All Ministers                                      | Wide Support                             | 3,6,7                     | 1,3                | Project #6               | Improving regulator capability and performance |
| Review of Employment Agent Licensing  | Continuous Improvement   |                          | Minister for Consumer Affairs                      | Unknown                                  | 3,8                       | 3                  | Project #4<br>Project #5 | Industry specific reviews                      |
| Motor Vehicle Repairers – licensing for individuals                             | Continuous improvement   |                          | Minister for Consumer Affairs                      | Unknown                                  | 3,8                       | 3                  | Project #4               | Industry specific reviews                      |
| On Demand Transport Industry – deregulation                                     | Continuous improvement   |                          | Minister for Transport and City Services           | Opposition likely from some stakeholders | 3,8                       | 3                  | N/A                      | Industry specific reviews                      |
| Construction Industry – Security of Payment for Building and Construction       | Continuous improvement   |                          | Minister for Sustainable Building and Construction | Unknown                                  | 3,8                       | 3                  | Project #4               | Industry specific reviews                      |
| Development of Best Practice Principles (and toolkit to achieve these outcomes) | Regulator Practice<br><br>Continuous improvement   |                          | All Ministers                                      | Unknown                                  | 2,6,7                     | All                | Project #6               | Implementing Best Practice Regulation          |
| Business Sentiment Survey (annual, bi annual basis)                             | Small business information and communications<br><br>Regulator practice                                    |                          | All Ministers                                      | Supported by CBC                         | 3,6,7,8                   | All                | Project #6               | Implementing Best Practice Regulation          |
| Baseline and measure existing regulatory burden on business                     | Small business information and communications<br>Regulator practice<br><br>Continuous improvement          |                          | All Ministers                                      | Supported                                | 3,6,7,8                   | All                | Project #6               | Implementing Best Practice Regulation          |

**CABINET - DLM**

| Measure  | Theme   | Further Cabinet Approval | Other Ministers | Stakeholder support | Best Practice Principle/s | Outcomes alignment | Leg Review | Reform Package                        |
|--|---|--------------------------|-----------------|---------------------|---------------------------|--------------------|------------|---------------------------------------|
| Adopting the NZ approach to managing the stock and flow of regulation  | Regulator practice  | Sch 1 1.0                | All Ministers   | Unknown             |                           | All                | N/A        | Implementing Best Practice Regulation |
| Adopt human centred design approach to development of regulation.  | Regulator practice  |                          | All Ministers   | Supported           | 6,7,8                     | All                | N/A        | Implementing Best Practice Regulation |
| Evaluation of new regulation in line with best practice principles.  | Regulator practice  |                          | All Ministers   | Unknown             | 1,2,4,5,8                 | All                | N/A        | Implementing Best Practice Regulation |
| Having a leading practice where we stay ahead of technological advancements.   | Regulator practice  |                          | All Ministers   | Supported-CBRIN     | 1,2,4,5,8                 | All                | N/A        | Implementing Best Practice Regulation |
| Implement Automatic Mutual Recognition of occupational licences.   | Skilled workforce   |                          | Chief Minister  | Supported           | 3,6,7                     | 2                  | Project #4 |                                       |
| Review of ACT/ NSW cross border alignment in legislation and associated regulatory practice. <sup>1</sup>                        | Simplification of Government to Business interactions<br><br>Continuous Improvement |                          | Multiple        | Wide Support        | 3,6,7,8                   | 3,4a               | Project #4 |                                       |
| Review of regulation overlap and duplication of government to business interactions. <i>Tell Us Once Principle.</i> <sup>2</sup> | Simplification of Government to Business interactions                               |                          | Multiple        | Wide Support        | 3,6,7,8                   | 1,3,4a             | Project #5 |                                       |
| High costs of insurance in Canberra - impost on business   | Continuous Improvement  |                          | Multiple        | Supported           | 3,8                       | 5                  | N/A        |                                       |

<sup>1</sup> The complexity of this measure depends on the range of legislation under review.

<sup>2</sup> The complexity of this measure depends on the range of regulation under review.

## Draft Best Practice Principles

The draft principles for making ACT regulation better are:

- 1) Commitment:
  - a. Government should commit to making better regulation.
- 2) Articulate the 'why':
  - a. Regulation should only be introduced and retained where there is a clear need for government intervention – a clear problem to be addressed or a clear outcome the government is trying to achieve.
  - b. Regulation should be principle-based and clearly articulate the underlying objectives.
- 3) Assess the impact:
  - a. As a fundamental part of the policy development for legislation and regulation, an assessment of the impact of regulation (including its impact on wellbeing), within the context of existing regulatory burden, should be undertaken.
  - b. This impact should be considered as a part of the government decision making process, including a consideration of a range of feasible policy options – including non-regulatory approaches.
  - c. The assessment should include an assessment of risk and a consideration of risk appetite and tolerance.
- 4) Be accountable:
  - a. Decisions and supporting evidence for regulation should be publicly available.
  - b. Regulator discretion should be supported by transparency and accountability measures.
- 5) Make room for leading practices:
  - a. Regulation should allow regulators and regulated entities to innovate.
  - b. Regulation should be tech-neutrality and allow for experimentation by business and regulators.
  - c. Regulators should have access to a range of compliance and enforcement tools.
- 6) Put people at the centre:
  - a. At all stages of the policy development and regulatory cycle, regular and effective consultation with stakeholders, especially regulated entities, should occur.
  - b. Human-centred design principles can be valuable to ensure regulatory systems are effective and efficient – especially to better understand overlapping, duplicated or cumulative burden.
- 7) Easy to comply:
  - a. Regulation should be in plain language.
  - b. Government systems should support seamless interactions for business.
  - c. Human support should be available for those businesses who need it.
- 8) Remain effective:
  - a. Existing regulation should be monitored and evaluated periodically to simplify, reform, modernise or consolidate.
  - b. Regulators should regularly assess their delivery approaches and impact on business.

**Taskforce Outcomes** *(as outlined in Jobs and Economic Recovery Plan and Taskforce Factsheet)*

- 1) Expanding digital service offerings of the ACT Government's public interactions and support Canberra businesses to transition to greater digital technology operations.
- 2) Improving labour mobility through automatic recognition of licences from other parts of Australia.
- 3) Identifying areas of regulatory burden through stakeholder engagement with ACT industry representative groups and businesses.
- 4) Reviewing key legislation to:
  - a. Reduce the need for businesses to contact multiple Government agencies; and
  - b. Ensure legislation across the ACT supports new business models to grow the digital economy
- 5) Removing barriers to investment in the Territory.

DRAFT

## Legislative Review Projects

| Project Number | Project Title                             | Summary of Project   | Estimate timeframe*  |
|----------------|---|--|--|
| 1              | Regulation of the 'entertainment economy' | <p><b>Review full legislative and regulatory arrangements for 'entertainment economy'.</b></p> <p>This review will consider the scope for a fundamental re-organisation of regulatory arrangements affecting the 'entertainment economy'. This area of the ACT economy straddles the ABS industry sectors:</p> <ul style="list-style-type: none"> <li>- Accommodation and food services</li> <li>- Arts and recreation services</li> </ul> <p>The review will examine legislation and regulatory practice in areas including land use, food and beverage regulation and noise control. It may consider appropriate alternatives to arrangements currently requiring prior approval.</p> <p>This project will involve extensive stakeholder consultation to identify and assess the range of issues associated with these activities.</p> | <p><b>12 months</b></p> <p>This project is expected to raise a large number of issues, requiring at least two rounds of stakeholder consultation.</p>  |
| 2              | ACT Government procurement processes      | <p><b>Standardise procurement processes across ACT Government</b></p> <p>This review will examine the scope for legislation to provide for the following specific measures:</p> <ul style="list-style-type: none"> <li>- Appropriate risk assessment and management practices and standards (including insurance requirements for contractors)</li> <li>- Obligations to provide information/feedback concerning tenders</li> <li>- Preference for local content in procurement decisions.</li> </ul> <p>The ability to impose local preference policies might be found to be limited by law or by arrangements to which the ACT is a party. Advice will be obtained on these limits before any public review is commenced.</p>  | <p><b>4-8 months</b></p> <p>Some potential for delays in review of risk assessment practices across Territory entities.</p> <p>Likelihood that local preference issue will extend time to complete review due to need for wider consultation on policy issues.</p> |

**CABINET - DLM**

|   |  |  |  |
|---|--|--|--|
| <p style="text-align: center;"><b>3</b></p> | <p style="text-align: center;"><b>Technology-specific legislation</b></p>  | <p><b>General review of legislation to remove any obligations requiring use of a particular technology</b></p> <p>This project will review legislation and regulatory practices which require, or presume, communications by means of a particular technology, such as a paper-based notice or a meeting requiring personal attendance. This includes arrangements currently suspended because of the COVID-19 emergency.</p> <p>The objective is to enable full use of modern digital technology appropriate to the circumstances.</p> <p>The review will also consider whether a particular requirement can be removed or modified, weighing the burdens it imposes against its intended public policy objectives.</p>   | <p style="text-align: center;"><b>6 months</b></p> <p style="text-align: center;">Assumes no significant policy issues</p>   |
| <p style="text-align: center;"><b>4</b></p> | <p style="text-align: center;"><b>Scope for cross-border alignment</b></p> | <p><b>Review of ACT-NSW regulation cross border alignment</b></p> <p>A general review of ACT-NSW legislation and regulation to maximise cross-border alignment with NSW.</p> <p>Special focus on consistency of definitions, licensing and reporting requirements.</p> <ul style="list-style-type: none"> <li>- Review of business licensing generally and whether further opportunities for harmonisation/interstate recognition</li> <li>- Scope to be considered with reference to progress on mutual recognition arrangements in ACT.</li> </ul> <p>This will require a detailed examination of legislation and regulatory practice across both jurisdictions. This would require consideration of a wide range of policy questions where divergencies are identified.</p> <p>For a cost-effective review, this project would focus on legislation and related</p> | <p style="text-align: center;"><b>9-12 months</b></p> <p style="text-align: center;">Some potential for comparison with NSW law to raise significant policy questions, requiring wider consultation.</p> |

**CABINET - DLM**

|   |                           |  |  |
|---|---------------------------|--|--|
|   |                           | <p>regulatory practice likely to have a particular impact on small business.</p> <p>The starting point for the review would be the legislation identified at Appendix 3 of the Legislative Review Report. This lists the primary legislation, but also includes subordinate legislation and other instruments made under those Acts.</p> <p>The review should also examine how this legislation is administered, as there may be divergencies in regulatory practice that do not arise out of the text of the legislation.</p>   |  |
| 5 | <b>Regulatory overlap</b> | <p><b>Review of regulator/regulation overlap and duplication</b></p> <p>This project would review regulator/regulation overlap and duplication to simplify business to government interactions:</p> <ul style="list-style-type: none"> <li>- Reduce 'touchpoints'</li> <li>- 'tell us once'.</li> </ul> <p>Regulatory overlaps may results either from requirements arising under legislation or by reason of regulatory practice (routine requests for information, standard forms etc).</p> <p>This review will be targeted initially at least to:</p> <ul style="list-style-type: none"> <li>- The legislation with small business impacts identified at Appendix 3 of the Legislative Review Report.</li> <li>- Any other reviews relating to licensing duplication currently in progress or under consideration by ACT directorates and agencies (including in particular any identified in the 2018 audit but not yet addressed).</li> </ul> <p>The review would undertake further consultation with business to identify any other areas where regulatory overlap may exist and where its removal will have practical benefits for business.</p> <p>The review could also consider, in appropriate cases, whether a system of</p> | <p style="text-align: center;"><b>6-9 months</b></p> <p>Less likely to raise significant policy questions than project 1 or project 4.</p> |

**CABINET - DLM**

|          |                              |   |   |
|----------|------------------------------|---|---|
|          |                              | 'class' or 'negative' licensing may be adopted in preference to an existing regime requiring prior approval of a particular kind of activity.   |   |
| <b>6</b> | <b>Regulator Performance</b> | <p><b>Legislation to improve regulator performance in general</b></p> <p>Review options for legislation to support regulator best practice containing the following features:</p> <ul style="list-style-type: none"> <li>- Statutory process for assessing performance of regulators</li> <li>- Obligations on regulators to actively manage regulatory framework and advise on where it continues to be fit for purpose: 'Stewardship'</li> <li>- Obligations on regulators to issue fact sheets, guidelines etc, regarding how they will apply legislation</li> <li>- Introduction of a standard suite of regulatory powers, which may be adopted as a template, with such modifications as are required, in legislation dealing with new regulatory arrangements.</li> </ul> | <p><b>3-5 months</b></p> <p>Limited scope for significant policy issues to arise.</p> |

\*Estimated timeframes as set out in the Legislative Review Report.

**Notes:**

- For each project an approximate timeframe for completion of the review is provided.
- These estimates are based on the steps for the implementation of that project as identified in Appendix 1 of the Legislative Review Report.
- Timeframes may be extended due to additional requirements: e.g., interim decision points for Government, further consultation with external stakeholders, etc.
- The estimated duration for each project does not cover subsequent action to implement its recommendations: e.g., Government decisions, drafting of legislation, further review by Legislative Assembly Committee, systems changes required by regulatory authorities, etc.
- The main cause of differing timeframes is the extent of consultation with external stakeholders likely to be required.



## Stuart, Katharine

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**From:** Clapham, David  
**Sent:** Wednesday, 23 February 2022 5:36 PM  
**To:** Saunders, Joe; Argy, Nicholas  
**Cc:** Engele, Sam; Chesworth, Fiona; Wilkie, Rachel; Better Regulation Taskforce  
**Subject:** Better Reg Work program DRAFT  
**Attachments:** Better Reg Work program DRAFT.docx

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

OFFICIAL: Sensitive

Dear Joe

If it's not throwing too big a spanner in the works, the thinking has evolved since we provided that draft a few days ago. Latest version following engagement with AC and ED attached. You may wish to sub this into the Minister, if not too late..

Happy to discuss thanks

David

# Better Regulation 2 Year Work Program

Policy and Legislation

**We will put in place a best practice procurement framework for SMEs**

- Review of procurement legislation, policies and administrative procedures with an SME lens

**We will enhance labour mobility**

- Ready the ACT for the commencement of automatic mutual recognition of occupational licensing.

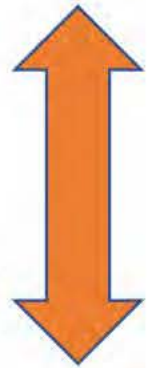
**We will manage the stock of existing regulation**

**We will make improvements to existing frameworks**

- Employment agents licensing
- Modernise the execution of statutory declarations and deeds
- Model Rules for Incorporated Associations
- Removal of references to outmoded payment methods
- Responsible service of alcohol improvements

**We will undertake industry-focused review and reform**

- review the legislative, regulatory and administrative arrangements for the nighttime/entertainment economy



Business Experience and Regulator Performance

**Regulator engagement will provide clear information and tailored support**

**Regulators will clearly communicate regulatory objectives & duties on business**

- Developing information resources, including consolidation of web material and new stand-alone toolkits, that:
  - make clear the regulatory outcomes and the harms we seek to minimise – the value of compliance;
  - explain how we are structured and who to contact;
  - Provide clear guidance on regulatory obligations, requirements and steps to start and run a successful business
  - Support business to quickly find the information they need, and the level of support that suits their circumstances.

**Government will provide tailored support to navigate barriers, requirements and find ways to say 'yes'**

- Expansion of existing services to introduce a dedicated, proactive business support team to work one-on-one with business to navigate, educate and problem solve. This would include working with existing or new and emerging businesses to find solutions or enable innovation.
- We will be clear on the harms and risks that set our requirements, remove barriers where we can and work with you to support innovation.

**Business will only tell us once**

- The Taskforce will work iteratively to identify opportunities to streamline processes, reduce overlap and duplication for business across ACT Government.

**We will better understand the experiences of business**

- Survey of business sentiment to measure the quantity and quality of interactions of business with government.
- User experience mapping of key business personas
- Pilot a model for human-centred design for new regulation

**Stuart, Katharine**

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**From:** Chesworth, Fiona  
**Sent:** Thursday, 10 March 2022 6:19 PM  
**To:** Moroney, Rebecca (Health); Ng, Daniel; Hakelis, Robyn; Muscat, Linda; Vaile, Jodie; Mangeruca, Giuseppe; Potter, Chantel; Lhuede, Nick; Pryce, David; McKinnon, Margaret; Martin, Victor (Health); Rynehart, Josh; Cubin, Derise; Grundy, Samantha; Bamford, Rebecca; Colussi, David; Springett, Emily; Kobus, Jonathan; Stewart-Moore, Karen; Kerkow, Kyla; Vroombout, Sue; McAulay, Heather; Lawrence, Ian; Chan, Yu-Lan; Short, Rachael; Mirzabegian, Sanaz; Callaghan, Thomas; Maclachlan, Hugh; Mahar, Nicole; Polglase, David; Clapham, David; Wilkie, Rachel; Kelly, Briega  
**Subject:** Chesworth, Fiona shared "Discovery Phase Report " with you.  
**Categories:** FOI



## Chesworth, Fiona shared a file with you

Revised Discovery Report link attached.

Please let me know if you have any problems accessing these documents.

Fiona



Discovery Phase Report



This link only works for the direct recipients of this message.

Open

## Stuart, Katharine

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**From:** Rynehart, Josh  
**Sent:** Wednesday, 2 March 2022 1:57 PM  
**To:** Clapham, David; Chesworth, Fiona  
**Subject:** comments on the draft discovery paper

OFFICIAL

Hi both

I've collated a few comments from across AC on the discovery paper. I think we have spoken about nearly all of them, but they are in a more concise frame. Happy to discuss 😊

- On page 10 it refers to difficulties posed by 1 year licences – most of the licences we issue have options for 1 – 3 years. This might need some clarity
- I also think a discussion about why we regulate is important – because this often relates to ensuring effective competition which benefits business & safety which benefits the broader community
- Do we have any tangible examples of issues raised, or just themes ?
- As a query can business needs /expectations co-exist with a human centred design approach in a regulatory context ? Both these elements are highlighted in the paper.
- The 'lens' that business were looking through was in the middle of the pandemic , with prescriptive rules based guidance ( that changed often) , I think that this flavours the responses.
- Best practice regulation means getting the settings right - before we need to regulate. I think that there are inconsistencies across many of our laws & this is because policy responsibilities are spread across a number of agencies ( and not all of those agencies have operational regulatory experience ) . So a consistent framework to guide the development of regulation is a good suggestion.

My other comment relates to the overall picture painted of Access Canberra. I think that this is a point in time snapshot & within that context may not acknowledge how much AC does in trying to ease regulatory burden. Business obviously do not see this , but I just don't want it to appear to our staff / Govt that AC has failed in its original mission , when we have actually come quite a long way.

- Access Canberra was formed to cut through regulatory red tape – i.e. “find 100 ways to say yes – without compromising safety” was the Chief Minister’s speech
- The AC risk based approach was adopted so that our compliance responses/ actions appropriately respond to the level of risk /harm .
- We also initiated coordinated compliance activities and joint inspection programs across industries in an effort to reduce the regulatory impact on businesses. ( by merging teams etc & having coordinated activities)
- We have always advocated for principle based regulation as opposed to prescriptive based regulation & asked for a range of enforcement tools
- We reviewed processes , eliminated lots of unnecessary / duplicate paper forms ( we saved over 1 million pieces of paper) .

Josh Rynehart (He/Him)  
Executive Branch Manager  
Access Canberra  
Ph: [REDACTED]  
Email: josh.rynehart@act.gov.au



## Stuart, Katharine

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**From:** Clapham, David  
**Sent:** Thursday, 10 March 2022 5:44 PM  
**To:** Moroney, Rebecca (Health); Ng, Daniel; Hakelis, Robyn; Muscat, Linda; Vaile, Jodie; Mangeruca, Giuseppe; Potter, Chantel; Lhuede, Nick; Pryce, David; McKinnon, Margaret; Martin, Victor (Health); Rynehart, Josh; Cubin, Derise; Grundy, Samantha; Bamford, Rebecca; Colussi, David; Springett, Emily; Kobus, Jonathan; Stewart-Moore, Karen; Kerkow, Kyla; Vroombout, Sue; McAulay, Heather; Lawrence, Ian; Chan, Yu-Lan; Short, Rachael; Mirzabegian, Sanaz; Callaghan, Thomas; Maclachlan, Hugh; Mahar, Nicole; Polglase, David  
**Cc:** Chesworth, Fiona; Better Regulation Taskforce; Kelly, Briege; Wilkie, Rachel; Engele, Sam  
**Subject:** Discovery Report and Measure Snapshots  
**Categories:** Trimmed, FOI

### CABINET

Colleagues

You will shortly receive an invitation to share two files through OneDrive:

- The draft Better Regulation Taskforce Discovery Report reflecting feedback received; and
- A proposed attachment to the Cabinet Submission – Sch 1 1.6

We are looking to clear the Cabinet package to Minister Cheyne tomorrow. We welcome any comments following your review, and will seek to reflect any feedback, including into next week as we finalise with the Minister's Office for Cabinet circulation. We also expect that further edits will be required as we move through exposure circulation for both ERC and Cabinet.

Thank you again for your support and engagement through this process. Please don't hesitate to contact me with any issues.

Best

David

**David Clapham** | Executive Branch Manager  
Better Regulation Taskforce | Economic and Regional Policy Branch | **Policy & Cabinet Division**  
☎ 02 6205 7261 | **Chief Minister, Treasury & Economic Development Directorate** | ACT Government  
Level 5, 220 London Circuit | GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)

## Stuart, Katharine

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**From:** Clapham, David  
**Sent:** Friday, 4 March 2022 3:00 PM  
**To:** Chesworth, Fiona; Wilkie, Rachel; Kelly, Briega  
**Cc:** Engele, Sam; Better Regulation Taskforce  
**Subject:** Feedback from Kathy Leigh on Discovery Report

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**OFFICIAL: Sensitive**

Team, only a few notes from Kathy, but we must ensure we reflect in the next draft.

- Reinforced the call to include “why we need regulation” element
- She echoed the Minister’s sensitivity around how the language will be read internally – advised we message to ensure we are sensitive to this.
- Recommended that we spruik how far we’ve come with Access Canberra – the best practice elements of our one-stop-shop approach.
- Secondment stints in private sector – Kathy a strong supporter – she asked us to let Damian West know that Kathy sees this an opportunity.

Overall though she said it was good work, so well done.

**David Clapham** | Executive Branch Manager

Better Regulation Taskforce | Economic and Regional Policy Branch | **Policy & Cabinet Division**

☎ 02 6205 7261 | **Chief Minister, Treasury & Economic Development Directorate** | ACT Government

Level 5, 220 London Circuit | GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)

## Stuart, Katharine

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**From:** Engele, Sam  
**Sent:** Monday, 14 February 2022 6:42 PM  
**To:** Pryce, David; Konti, Bettina; Snow, Malcolm; Walker, IanS; O'Neill, Carolyn; Bowdery, John; Ng, Daniel; Arthy, Kareena; Kobus, Jonathan; Miners, Stephen; Hocking, Stuart; Salisbury, Kim; Smyth, Brendan; Perkins, Anita; West, Damian; Snow, Malcolm; Holmes, Lisa; Croke, Leesa  
**Cc:** Clapham, David; Chesworth, Fiona; Better Regulation Taskforce  
**Subject:** FOR COMMENT: Better Regulation Taskforce - Work program  
**Attachments:** Attachment A - BRT Suggested Work Program for 2022.docx; Attachment B - Supporting Analysis for Reform Packages.docx

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Colleagues

The Better Regulation Taskforce is authoring its report on the Discovery Phase. It will include a forward work program and I wanted to send to you our early thinking on this.

Taking into account what we have heard from our engagements, a jurisdictional analysis and the results of Phase 1 of the Legislation Review, we have collated a comprehensive list of possible reform measures which could be taken forward. As you might expect, the measures range from small 'quick fixes' to some very large sectoral wide initiatives and everything in between.

Where we have been able to identify a unifying idea or theme, we have brought a number of the measures together into reform packages.

- There are six potential reform packages and these are identified in Table A of [Attachment B - Supporting Analysis for Reform Packages](#).
- Tables B and C in [Attachment B](#) then list every single measure we have identified and categorised them as either less complex or more complex respectively. We also note where these single measures could be part of a reform package.

This approach opens the possibility of building a forward work program by selecting one reform package (say, for example, entertainment and night time economy) along with a number of stand-alone measures.

- We have modelled such an approach in [Attachment A - Suggested Work Program for 2022 and Discovery Report Timeline](#).

I ask that you do not share these further outside of key personnel in your agency as we are yet to discuss these with Ministers. The matters will also be subject to Cabinet approval.

We are keen to hear your first impressions and thoughts. We hope to make the draft Discovery Phase report available soon.

If there are any questions or comments, including a fuller description of any of the measures, please reach out to me or [@Clapham, David](#) or any of the team via [@Better Regulation Taskforce](#)

Regards,

**SAM ENGELE**

Coordinator-General for Climate Action  
& Head of the Better Regulation Taskforce

Phone 02 6205 0230 | Mobile [Sch 2.2\(a\)\(ii\)](#)



Email [Sam.Engele@ACT.gov.au](mailto:Sam.Engele@ACT.gov.au)

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Chief Minister, Treasury and Economic Development Directorate  
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**CABINET- DLM**

BRT Suggested Work Program for 2022

| Measure   | Complexity   | Theme  | BRT involvement                  | Other directorates and agencies                   | Timeframe   |
|---|--------------|--|----------------------------------|---|-------------|
| Business Sentiment Survey   | Less complex | Regulator Practice Continuous Improvement  | Lead                             | CMTEDD: Access Canberra, and Economic Development | < 12 months |
| Compliance checklist / factsheets for business                      | Less complex | Regulator Practice   | Lead                             | CMTEDD: Access Canberra, and policy owners        | < 12 months |
| Review of Local Industry Participation Policy                       | Less complex | Programs and Support for SMEs – Procurement                                      | Assist<br>*Specialist Capability | CMTEDD: Economic Development, PACT                | < 12 months |
| Model Rules for Incorporated Associations                           | Less complex | Continuous Improvement   | Lead                             | CMTEDD: Access Canberra JACS – LPP                | <12 months  |
| Employment Agent Licensing *  | More complex | Continuous Improvement   | Lead                             | CMTEDD: Access Canberra JACS – LPP                | < 12 months |
| Removal of reference to cheques in ACT laws*                        | More complex | Continuous Improvement<br><br>Simplification of Business-Government Interactions | Lead                             | Multiple  | < 12 months |
| Modernising Document Execution (Deeds and Statutory Declarations) * | More complex | Simplification of Business-Government Interactions                               | Lead                             | Multiple  | <12 months  |

\*current commitment

**CABINET- DLM**

| <b>Measure</b>  | <b>Complexity</b> | <b>Theme</b>  | <b>BRT involvement</b> | <b>Other directorates and agencies</b>  | <b>Timeframe</b> |
|---|-------------------|---|------------------------|---|------------------|
| Improving Labour Mobility – AMR *   | More complex      | Skilled workforce   | Lead                   | Multiple  | Ongoing          |
| Entertainment Economy & Night-time Economy                                | Reform Package    | Regulator Practice<br><br>Simplification of business government interactions.<br><br>Continuous Improvement | Lead                   | CMTEDD: Economic Development, Access Canberra, Environment Protection Authority, Treasury, EPSDD, JACS, Health, TCCS, CSD | >12 Months       |
| Continued learning and application of best practice regulation principles | Reform Package    | Continuous Improvement  | Learn                  | WhOG  | Ongoing          |

Supporting Analysis for Reform

Table A – Possible Reform Packages

- These packages are multifaceted, high impact, engage a significant number of stakeholders, resource intensive and will require further cabinet processes through development and implementation.
- The reform packages parcel various measures from Table B and Table C which have a common reform idea or theme.

| Reform Package   | Theme(s)  | Other Ministers   | Stakeholder support                       | Best Practice Principle/s | Outcomes alignment | Leg Review |
|--|---|---|---|---------------------------|--------------------|------------|
| <b>Entertainment Economy</b> <ul style="list-style-type: none"> <li>• Liquor Act review</li> <li>• Environment Protection Regulatory Framework review</li> <li>• Mapping of approvals, licences, processes</li> <li>• Events approvals</li> <li>• Lease purpose clauses</li> <li>• Overlap/duplication with Cth</li> <li>• Security agents licensing framework</li> <li>• Review of RSA &amp; RTO training requirements</li> </ul> | Continuous Improvement<br><br>Simplification of Business-Government Interactions<br><br>Regulator Practice<br><br>Small business information and communications | The most relevant are:<br><br>Chief Minister<br><br>Minister for Economic Development<br><br>Minister for Tourism<br><br>Minister for Planning and Land Management<br><br>Minister for the Environment<br><br>Attorney-General<br><br>Minister for Transport and City Services<br><br>Minister for Sustainable Building and Construction<br><br>Minister for Gaming | Wide support but a highly contested space | 3,6,7,8                   | 1,3,4a             | Project #1 |
| <b>Modernising business communications:</b> <ul style="list-style-type: none"> <li>• References to cheques</li> <li>• Review for tech neutrality</li> <li>• Modernising document execution</li> </ul>  | Continuous Improvement<br><br>Simplification of Business-Government Interactions  | Attorney-General<br><br>Treasurer<br><br>Plus relevant portfolio ministers  | Unknown                                   | 3,5,6,7,8                 | 1,3,4b             | Project #3 |

**CABINET - DLM**

| Reform Package  | Theme(s)   | Other Ministers   | Stakeholder support                                    | <a href="#">Best Practice Principle/s</a> | <a href="#">Outcomes alignment</a> | <a href="#">Leg Review</a>   |
|---|--|---|--|---|------------------------------------|------------------------------|
| <b>Best Practice Procurement Framework</b> <ul style="list-style-type: none"> <li>• Review of legislation</li> <li>• Review of policies</li> <li>• Measurement and evaluation</li> </ul>  | Programs and Support for SMES – Procurement  | Special Minister of State<br><br>Treasurer  | Wide Support   | 3,6,7                                     | 3,5                                | Project #2                   |
| <b>Improving regulator capability and performance</b> <ul style="list-style-type: none"> <li>• Introduce obligation to actively manage regulation and to produce factsheets</li> <li>• Business helpdesk/concierge</li> <li>• Regulatory powers legislation</li> </ul>  | Small business information and communications<br>Regulator Practice<br><br>Simplification of Government to Business interactions<br><br>Continuous Improvement | Regulatory powers legislations would impact on a number of ministerial portfolios | Wide Support   | 3,6,7,8                                   | 3                                  | Project #6                   |
| <b>Implementing Best Practice Regulation</b> <ul style="list-style-type: none"> <li>• Best Practice Principles and toolkit</li> <li>• Business survey</li> <li>• Measure of burden</li> <li>• Stock and flow management</li> <li>• Evaluation</li> <li>• Human centred design</li> <li>• Keeping pace with tech advancements</li> </ul> | Continuous improvement<br><br>Small business information and communications<br><br>Regulator Practice  | All ministers   | Supported  | 3,4,5,6,7,8                               | 3,4a                               | Project #6<br><br>Project #5 |
| <b>Industry specific reviews:</b> <ul style="list-style-type: none"> <li>• Motor vehicle repairers</li> <li>• Employment agents</li> <li>• ODTI</li> <li>• Incorporated Associations</li> </ul>   | Skilled Workforce  | Treasurer<br><br>Minister for Consumer Affairs<br><br>Attorney- General           | Strong support for some measures<br>Unknown for others | Various                                   | 2,3                                | N/A                          |

## CABINET - DLM

Table B - Less complex measures

- Can be delivered in 2022 Estimated timeframe for delivery 3-6 months for each measure
- No further Cabinet approval required for these measures
- These measures can be pursued as stand-alone reforms or they could form part of a suite of measures for a reform package

| Measure  | Theme  | Other Ministers  | Stakeholder support | Best Practice Principle/s | Outcomes alignment | Leg Review | Reform Package                                 |
|--|--|--|---------------------|---------------------------|--------------------|------------|--|
| Business Sentiment Survey  | Regulator Practice<br>Continuous Improvement | All  | Supported by CBC    | 3, 6                      | 3, 4 a and b.      | Project #5 | Implementing best practice regulation          |
| Compliance checklist / factsheets for business   | Regulator Practice                           | Nil  | Wide support        | 5,6,7                     | 1, 3,4a.           | N/A        | Improving regulator capability and performance |
| Who does What in Access Canberra info-graphic  | Regulator Practice                           | Nil  | Supported           | 4,6,7                     | 3,4a               | N/A        | Improving regulator capability and performance |
| Review of Local Industry Participation Policy  | Programs and Support for SMES – Procurement  | Special Minister of State<br>Minister for Economic Development | Wide support        | 2,3,8                     | 3,5                | Project #2 | Best Practice Procurement Framework            |
| Review of RSA & RTO training requirements  | Continuous Improvement                       | Attorney-General   | Unknown             | 7,8                       | 3                  | Project #1 | Entertainment Economy                          |
| Review and reform process for notifying government entities of changes in club committees. | Regulator Practice<br>Continuous Improvement | Attorney-General   | Unknown             | 7,8                       | 3, 4a              | Project #1 |  |
| Model Rules for Incorporated Associations  |  |  |                     |                           |                    | N/A        | Industry specific reviews                      |

**CABINET - DLM**

**Table C - More complex measures**

- Can be delivered over 2022-2023. Timeframe for delivery generally exceeds 6 months due to complexity
- Cabinet approval may be required for some of these measures
- These measures can be pursued as stand-alone reforms or they can form part of a suite of measures for a reform package

| Measure  | Theme  | Further Cabinet Approval | Other Ministers  | Stakeholder support | Best Practice Principle/s | Outcomes alignment | Leg Review | Reform Package        |
|--|--|--------------------------|--|---------------------|---------------------------|--------------------|------------|-----------------------|
| Entertainment Economy Industry analysis - mapping approvals, licensing and reporting requirements    | Simplification of Business-Government Interactions   | Sch 1 1.6                | Multitple  | Wide Support        | 3,6,7,8                   | 3,4a,5             | Project #1 | Entertainment Economy |
| Review of the Liquor Act (and liquor licensing fees)   | Continuous Improvement<br><br>Simplification of Business-Government Interactions<br><br>Regulator Practice |                          | Multiple   | Wide Support        | 3,6,7,8                   | 3,4a,5             | Project #1 | Entertainment Economy |
| Review of the Environment Protection Regulatory Framework as it relates to regulation of noise/sound | Continuous Improvement<br><br>Simplification of Business-Government Interactions<br><br>Regulator Practice |                          | Minister for Planning and Land Management,<br><br>Minister for the Environment | Supported           | 3,7                       | 3,4a               | Project #1 | Entertainment Economy |
| Review of Lease Purpose Clauses and the planning process/costs associated with varying a LPC         | Continuous Improvement   |                          | Minister for Gaming, Minister for Planning and Land Management                 | Supported           | 3,6,7                     | 5                  | Project #1 | Entertainment Economy |
| Reviewing requirements and process for application and renewal of security agent's licence           | Simplification of Business-Government Interactions   |                          | Minister for Consumer Affairs  | Supported           | 3,6,7                     | 1,3,4a             | Project #1 | Entertainment Economy |

**CABINET - DLM**

| Measure   | Theme  | Further Cabinet Approval | Other Ministers                            | Stakeholder support           | Best Practice Principle/s | Outcomes alignment | Leg Review | Reform Package                      |
|---|--|--------------------------|--|-------------------------------|---------------------------|--------------------|------------|-------------------------------------|
| Review the events approval process including legal, regulatory requirements, fees levied by ACT Government. | Continuous Improvement<br><br>Simplification of Business-Government Interactions<br><br>Regulator Practice | Sch 1.1.3                | Minister for Planning and Land Management, | Wide Support                  | 3,6,7,8                   | 1,3,4a,5           | Project #1 | Entertainment Economy               |
| Review interactions with Commonwealth NCA requirements for events and tourism on National Land              | Simplification of Business-Government Interactions   |                          | Minister for Planning and Land Management  | Supported                     | 3,5,6,7,8                 | 4a                 | Project #1 | Entertainment Economy               |
| Removal of reference to cheques   | Continuous Improvement<br><br>Simplification of Business-Government Interactions                           |                          | Attorney-General<br><br>Treasurer          | Unknown – supported by AusPay | 6,7,8                     | 1,3                | Project #3 | Modernising Business Communications |
| Review of ACT statute book to ensure technology neutral legislation   | Continuous Improvement<br><br>Simplification of Business-Government Interactions                           |                          | All ministers                              | Unknown                       | 5                         | 4b                 | Project #3 | Modernising Business Communications |
| Modernising Document Execution (Stat decs and deeds)  | Continuous Improvement<br><br>Simplification of Business-Government Interactions                           |                          | Attorney-General                           | Unknown                       | 5                         | 4b                 | Project #3 | Modernising Business Communications |



**CABINET - DLM**

| Measure  | Theme   | Further Cabinet Approval | Other Ministers           | Stakeholder support | Best Practice Principle/s | Outcomes alignment | Leg Review | Reform Package                                 |
|--|---|--------------------------|---------------------------|---------------------|---------------------------|--------------------|------------|--|
| Review of Procurement Legislation  | Programs and Support for SMES – Procurement<br><br>Continuous Improvement | Sch 1 1.6                | Special Minister of State | Wide Support        | 3,6,7                     | 3                  | Project #2 | Best Practice Procurement Framework            |
| Review of Procurement Policies and settings.   | Programs and Support for SMES – Procurement<br><br>Continuous Improvement |                          | Special Minister of State | Wide Support        | 3,6,7                     | 3                  | Project #2 | Best Practice Procurement Framework            |
| Procurement Measurement and Evaluation .   | Programs and Support for SMES – Procurement<br><br>Continuous Improvement |                          | Special Minister of State | Supported           | 3,6,7                     | 3                  | Project #2 | Best Practice Procurement Framework            |
| Statutory process for assessing performance of regulators                                    | Regulator Practice  |                          | Multiple                  | Unknown             | 4,5,8                     | 3, 4a              | Project #6 | Improving regulator capability and performance |
| Impose an obligation on regulators to actively manage the regulatory framework (stewardship) | Regulator Practice  |                          | Multiple                  | Unknown             | 4,5                       | 3, 4a              | Project #6 | Improving regulator capability and performance |
| Impose an obligation on regulators to issue factsheets and guidelines                        | Regulator Practice  |                          | Multiple                  | Wide Support        | 6,7,8                     | 3,4a               | Project #6 | Improving regulator capability and performance |
| Introduction of a standard suite of regulatory powers  | Regulator Practice  |                          | Multiple                  | Unknown             | 4,5,6,7,8                 | 3, 4a              | Project #6 | Improving regulator capability and performance |

**CABINET - DLM**

| Measure   | Theme  | Further Cabinet Approval | Other Ministers                                    | Stakeholder support                      | Best Practice Principle/s | Outcomes alignment | Leg Review               | Reform Package                                 |
|---|--|--------------------------|--|--|---------------------------|--------------------|--------------------------|--|
| Business Helpdesk Function (concierge service and/or case manager approach)     | Small business information and communications<br><br>Simplification of Government to Business interactions | Sch 1 1.8                | All Ministers                                      | Wide Support                             | 3,6,7                     | 1,3                | Project #6               | Improving regulator capability and performance |
| Review of Employment Agent Licensing  | Continuous Improvement   |                          | Minister for Consumer Affairs                      | Unknown                                  | 3,8                       | 3                  | Project #4<br>Project #5 | Industry specific reviews                      |
| Motor Vehicle Repairers – licensing for individuals                             | Continuous improvement   |                          | Minister for Consumer Affairs                      | Unknown                                  | 3,8                       | 3                  | Project #4               | Industry specific reviews                      |
| On Demand Transport Industry – deregulation                                     | Continuous improvement   |                          | Minister for Transport and City Services           | Opposition likely from some stakeholders | 3,8                       | 3                  | N/A                      | Industry specific reviews                      |
| Construction Industry - Security of Payment for Building and Construction       | Continuous improvement   |                          | Minister for Sustainable Building and Construction | Unknown                                  | 3,8                       | 3                  | Project #4               | Industry specific reviews                      |
| Development of Best Practice Principles (and toolkit to achieve these outcomes) | Regulator Practice<br><br>Continuous improvement   |                          | All Ministers                                      | Unknown                                  | 2,6,7                     | All                | Project #6               | Implementing Best Practice Regulation          |
| Business Sentiment Survey (annual, bi annual basis)                             | Small business information and communications<br><br>Regulator practice                                    |                          | All Ministers                                      | Supported by CBC                         | 3,6,7,8                   | All                | Project #6               | Implementing Best Practice Regulation          |
| Baseline and measure existing regulatory burden on business                     | Small business information and communications<br>Regulator practice<br><br>Continuous improvement          |                          | All Ministers                                      | Supported                                | 3,6,7,8                   | All                | Project #6               | Implementing Best Practice Regulation          |

**CABINET - DLM**

| Measure  | Theme   | Further Cabinet Approval | Other Ministers | Stakeholder support | Best Practice Principle/s | Outcomes alignment | Leg Review | Reform Package                        |
|--|---|--------------------------|-----------------|---------------------|---------------------------|--------------------|------------|---------------------------------------|
| Adopting the NZ approach to managing the stock and flow of regulation  | Regulator practice  | Sch 1 1.6                | All Ministers   | Unknown             |                           | All                | N/A        | Implementing Best Practice Regulation |
| Adopt human centred design approach to development of regulation.  | Regulator practice  |                          | All Ministers   | Supported           | 6,7,8                     | All                | N/A        | Implementing Best Practice Regulation |
| Evaluation of new regulation in line with best practice principles.  | Regulator practice  |                          | All Ministers   | Unknown             | 1,2,4,5,8                 | All                | N/A        | Implementing Best Practice Regulation |
| Having a leading practice where we stay ahead of technological advancements.   | Regulator practice  |                          | All Ministers   | Supported - CBRIN   | 1,2,4,5,8                 | All                | N/A        | Implementing Best Practice Regulation |
| Implement Automatic Mutual Recognition of occupational licences.   | Skilled workforce   |                          | Chief Minister  | Supported           | 3,6,7                     | 2                  | Project #4 |                                       |
| Review of ACT / NSW cross border alignment in legislation and associated regulatory practice. <sup>1</sup>                       | Simplification of Government to Business interactions<br><br>Continuous Improvement |                          | Multiple        | Wide Support        | 3,6,7,8                   | 3,4a               | Project #4 |                                       |
| Review of regulation overlap and duplication of government to business interactions. <i>Tell Us Once Principle.</i> <sup>2</sup> | Simplification of Government to Business interactions                               |                          | Multiple        | Wide Support        | 3,6,7,8                   | 1,3,4a             | Project #5 |                                       |
| High costs of insurance in Canberra - impost on business   | Continuous Improvement  |                          | Multiple        | Supported           | 3,8                       | 5                  | N/A        |                                       |

<sup>1</sup> The complexity of this measure depends on the range of legislation under review.

<sup>2</sup> The complexity of this measure depends on the range of regulation under review.

## Draft Best Practice Principles

The draft principles for making ACT regulation better are:

- 1) Commitment:
  - a. Government should commit to making better regulation.
- 2) Articulate the 'why':
  - a. Regulation should only be introduced and retained where there is a clear need for government intervention – a clear problem to be addressed or a clear outcome the government is trying to achieve.
  - b. Regulation should be principle-based and clearly articulate the underlying objectives.
- 3) Assess the impact:
  - a. As a fundamental part of the policy development for legislation and regulation, an assessment of the impact of regulation (including its impact on wellbeing), within the context of existing regulatory burden, should be undertaken.
  - b. This impact should be considered as a part of the government decision making process, including a consideration of a range of feasible policy options – including non-regulatory approaches.
  - c. The assessment should include an assessment of risk and a consideration of risk appetite and tolerance.
- 4) Be accountable:
  - a. Decisions and supporting evidence for regulation should be publicly available.
  - b. Regulator discretion should be supported by transparency and accountability measures.
- 5) Make room for leading practices:
  - a. Regulation should allow regulators and regulated entities to innovate.
  - b. Regulation should be tech-neutrality and allow for experimentation by business and regulators.
  - c. Regulators should have access to a range of compliance and enforcement tools.
- 6) Put people at the centre:
  - a. At all stages of the policy development and regulatory cycle, regular and effective consultation with stakeholders, especially regulated entities, should occur.
  - b. Human-centred design principles can be valuable to ensure regulatory systems are effective and efficient – especially to better understand overlapping, duplicated or cumulative burden.
- 7) Easy to comply:
  - a. Regulation should be in plain language.
  - b. Government systems should support seamless interactions for business.
  - c. Human support should be available for those businesses who need it.
- 8) Remain effective:
  - a. Existing regulation should be monitored and evaluated periodically to simplify, reform, modernise or consolidate.
  - b. Regulators should regularly assess their delivery approaches and impact on business.

**Taskforce Outcomes** *(as outlined in Jobs and Economic Recovery Plan and Taskforce Factsheet)*

- 1) Expanding digital service offerings of the ACT Government's public interactions and support Canberra businesses to transition to greater digital technology operations.
- 2) Improving labour mobility through automatic recognition of licences from other parts of Australia.
- 3) Identifying areas of regulatory burden through stakeholder engagement with ACT industry representative groups and businesses.
- 4) Reviewing key legislation to:
  - a. Reduce the need for businesses to contact multiple Government agencies; and
  - b. Ensure legislation across the ACT supports new business models to grow the digital economy
- 5) Removing barriers to investment in the Territory.

DRAFT

## Legislative Review Projects

| Project Number | Project Title                             | Summary of Project   | Estimate timeframe*  |
|----------------|---|--|--|
| 1              | Regulation of the 'entertainment economy' | <p><b>Review full legislative and regulatory arrangements for 'entertainment economy'.</b></p> <p>This review will consider the scope for a fundamental re-organisation of regulatory arrangements affecting the 'entertainment economy'. This area of the ACT economy straddles the ABS industry sectors:</p> <ul style="list-style-type: none"> <li>- Accommodation and food services</li> <li>- Arts and recreation services</li> </ul> <p>The review will examine legislation and regulatory practice in areas including land use, food and beverage regulation and noise control. It may consider appropriate alternatives to arrangements currently requiring prior approval.</p> <p>This project will involve extensive stakeholder consultation to identify and assess the range of issues associated with these activities.</p> | <p><b>12 months</b></p> <p>This project is expected to raise a large number of issues, requiring at least two rounds of stakeholder consultation.</p>  |
| 2              | ACT Government procurement processes      | <p><b>Standardise procurement processes across ACT Government</b></p> <p>This review will examine the scope for legislation to provide for the following specific measures:</p> <ul style="list-style-type: none"> <li>- Appropriate risk assessment and management practices and standards (including insurance requirements for contractors)</li> <li>- Obligations to provide information/feedback concerning tenders</li> <li>- Preference for local content in procurement decisions.</li> </ul> <p>The ability to impose local preference policies might be found to be limited by law or by arrangements to which the ACT is a party. Advice will be obtained on these limits before any public review is commenced.</p>  | <p><b>4-8 months</b></p> <p>Some potential for delays in review of risk assessment practices across Territory entities.</p> <p>Likelihood that local preference issue will extend time to complete review due to need for wider consultation on policy issues.</p> |

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|   |  |  |  |
|---|--|--|--|
| <p style="text-align: center;"><b>3</b></p> | <p style="text-align: center;"><b>Technology-specific legislation</b></p>  | <p><b>General review of legislation to remove any obligations requiring use of a particular technology</b></p> <p>This project will review legislation and regulatory practices which require, or presume, communications by means of a particular technology, such as a paper-based notice or a meeting requiring personal attendance. This includes arrangements currently suspended because of the COVID-19 emergency.</p> <p>The objective is to enable full use of modern digital technology appropriate to the circumstances.</p> <p>The review will also consider whether a particular requirement can be removed or modified, weighing the burdens it imposes against its intended public policy objectives.</p>   | <p style="text-align: center;"><b>6 months</b></p> <p style="text-align: center;">Assumes no significant policy issues</p>   |
| <p style="text-align: center;"><b>4</b></p> | <p style="text-align: center;"><b>Scope for cross-border alignment</b></p> | <p><b>Review of ACT-NSW regulation cross border alignment</b></p> <p>A general review of ACT-NSW legislation and regulation to maximise cross-border alignment with NSW.</p> <p>Special focus on consistency of definitions, licensing and reporting requirements.</p> <ul style="list-style-type: none"> <li>- Review of business licensing generally and whether further opportunities for harmonisation/interstate recognition</li> <li>- Scope to be considered with reference to progress on mutual recognition arrangements in ACT.</li> </ul> <p>This will require a detailed examination of legislation and regulatory practice across both jurisdictions. This would require consideration of a wide range of policy questions where divergencies are identified.</p> <p>For a cost-effective review, this project would focus on legislation and related</p> | <p style="text-align: center;"><b>9-12 months</b></p> <p style="text-align: center;">Some potential for comparison with NSW law to raise significant policy questions, requiring wider consultation.</p> |

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|   |                    |  |  |
|---|--------------------|--|--|
|   |                    | <p>regulatory practice likely to have a particular impact on small business.</p> <p>The starting point for the review would be the legislation identified at Appendix 3 of the Legislative Review Report. This lists the primary legislation, but also includes subordinate legislation and other instruments made under those Acts.</p> <p>The review should also examine how this legislation is administered, as there may be divergencies in regulatory practice that do not arise out of the text of the legislation.</p>   |  |
| 5 | Regulatory overlap | <p><b>Review of regulator/regulation overlap and duplication</b></p> <p>This project would review regulator/regulation overlap and duplication to simplify business to government interactions:</p> <ul style="list-style-type: none"> <li>- Reduce 'touchpoints'</li> <li>- 'tell us once'.</li> </ul> <p>Regulatory overlaps may results either from requirements arising under legislation or by reason of regulatory practice (routine requests for information, standard forms etc).</p> <p>This review will be targeted initially at least to:</p> <ul style="list-style-type: none"> <li>- The legislation with small business impacts identified at Appendix 3 of the Legislative Review Report.</li> <li>- Any other reviews relating to licensing duplication currently in progress or under consideration by ACT directorates and agencies (including in particular any identified in the 2018 audit but not yet addressed).</li> </ul> <p>The review would undertake further consultation with business to identify any other areas where regulatory overlap may exist and where its removal will have practical benefits for business.</p> <p>The review could also consider, in appropriate cases, whether a system of</p> | <p><b>6-9 months</b></p> <p>Less likely to raise significant policy questions than project 1 or project 4.</p> |



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|          |                              |   |   |
|----------|------------------------------|---|---|
|          |                              | 'class' or 'negative' licensing may be adopted in preference to an existing regime requiring prior approval of a particular kind of activity.   |   |
| <b>6</b> | <b>Regulator Performance</b> | <p><b>Legislation to improve regulator performance in general</b></p> <p>Review options for legislation to support regulator best practice containing the following features:</p> <ul style="list-style-type: none"> <li>- Statutory process for assessing performance of regulators</li> <li>- Obligations on regulators to actively manage regulatory framework and advise on where it continues to be fit for purpose: 'Stewardship'</li> <li>- Obligations on regulators to issue fact sheets, guidelines etc, regarding how they will apply legislation</li> <li>- Introduction of a standard suite of regulatory powers, which may be adopted as a template, with such modifications as are required, in legislation dealing with new regulatory arrangements.</li> </ul> | <p><b>3-5 months</b></p> <p>Limited scope for significant policy issues to arise.</p> |

\*Estimated timeframes as set out in the Legislative Review Report.

**Notes:**

- For each project an approximate timeframe for completion of the review is provided.
- These estimates are based on the steps for the implementation of that project as identified in Appendix 1 of the Legislative Review Report.
- Timeframes may be extended due to additional requirements: e.g., interim decision points for Government, further consultation with external stakeholders, etc.
- The estimated duration for each project does not cover subsequent action to implement its recommendations: e.g., Government decisions, drafting of legislation, further review by Legislative Assembly Committee, systems changes required by regulatory authorities, etc.
- The main cause of differing timeframes is the extent of consultation with external stakeholders likely to be required.

## Stuart, Katharine

---

**From:** Clapham, David  
**Sent:** Thursday, 17 February 2022 1:52 PM  
**To:** Saunders, Joe; Argy, Nicholas  
**Cc:** Chesworth, Fiona; Wilkie, Rachel; Engele, Sam; Better Regulation Taskforce  
**Subject:** For testing: redrafted BRT program  
**Attachments:** Workstreams BRT.docx

Dear Nick and Joe

Following our meeting with Minister Cheyne on Tuesday we have recast the work program to hopefully reflect the two streams that the Minister requested. The attached presents a proposed program for the remaining funded activities of the BRT, as well as potential future reform directions.

We have tried to reflect the Minister's direction that a focus of the BRT must be on business experience and regulator performance, distinct from "focussed" reforms on specific issues (eg SME procurement) or industries (eg nighttime economy). To this end, the *Business Experience and Regulator Performance* stream is expressed in a way to describe the future state - the improvements in experience that business will see through the work of the BRT. It is important to note that many of these outcome statements, and the underpinning outputs detailed here, will require Access Canberra agreement and commitment, and we are still actively consulting with Access Canberra on them. There may be some sensitivities with what we have listed, but we wanted to get a steer from you before we continue with the Discovery Report and accompanying Cabinet Submission.

This is a fairly rough mock up and we are still segmenting work packages and thinking through where they would be placed in sequence and stream - you will see on the second page a blue box that deals with event approvals - we are still thinking through where and how to put this, so apologies for the unpolished presentation. I hope that this is ok.

I am available this afternoon to discuss, or tomorrow.

Thanks

David

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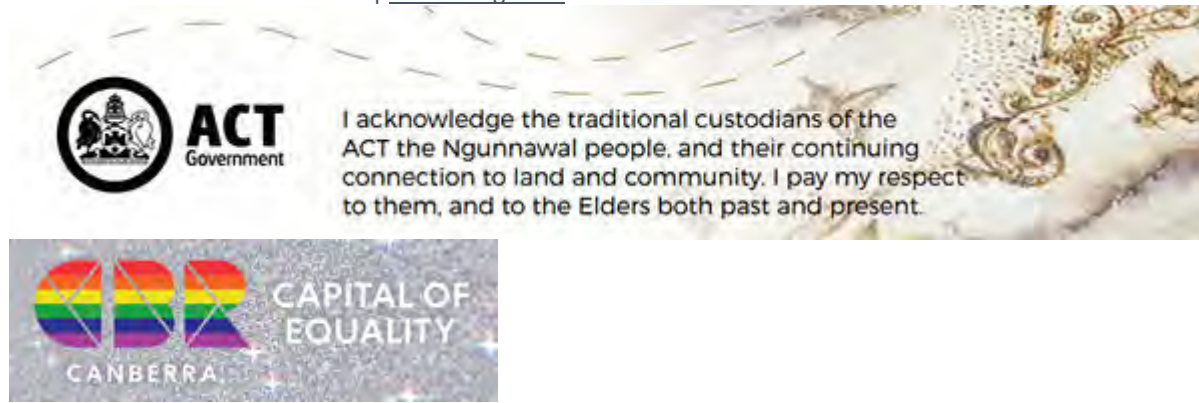
**From:** Chesworth, Fiona <Fiona.Chesworth@act.gov.au>  
**Sent:** Thursday, February 17, 2022 8:10:40 AM  
**To:** Dyer, Bryony <Bryony.Dyer@act.gov.au>; Kelly, Briega <Briega.Kelly@act.gov.au>; Webster, Eddy <Eddy.Webster@act.gov.au>; Hosie, Donna <Donna.Hosie@act.gov.au>; MacKinnon, Niall <Niall.MacKinnon@act.gov.au>  
**Cc:** Wilkie, Rachel <Rachel.Wilkie@act.gov.au>; Clapham, David <David.Clapham@act.gov.au>  
**Subject:** Assistance with drafting input for DR and submission

CABINET

Out of Scope

# Out of Scope

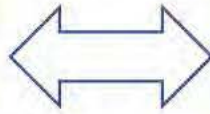
Policy and Cabinet Division | 620 71125  
Chief Ministers, Treasury and Economic Development Directorate | ACT Government  
GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)



**David Clapham** | Executive Branch Manager  
Better Regulation Taskforce | Economic and Regional Policy Branch | **Policy & Cabinet Division**  
☎ [02 6205 7261](tel:0262057261) | **Chief Minister, Treasury & Economic Development Directorate** | ACT Government  
Level 5, [220 London Circuit](http://www.act.gov.au) | GPO [Box 158 Canberra ACT 2601](http://www.act.gov.au) | [www.act.gov.au](http://www.act.gov.au)

# Better Regulation Taskforce Work Program

## Policy and Legislation



## Business Experience and Regulator Performance

### We will put in place a best practice procurement framework for SMEs

- Review of procurement legislation, policies and administrative with an SME lens

### We will enhance labour mobility

- Ready the ACT for the commencement of automatic mutual recognition of occupational licensing.

### We will manage the stock of existing regulation

- Employment agents licensing
- Modernise the execution of statutory declarations and deeds
- Model Rules for Incorporated Associations
- Removal of references to outmoded payment methods
- RSA?

### We will manage the stock of existing regulation

- review the legislative, regulatory and administrative arrangements for the nighttime/entertainment economy

### We will better understand the experiences of business

- Survey of business sentiment to measure the quantity and quality of interactions of business with government.
- User experience mapping of key business personas
- Pilot a model for human centred design for new regulation

### Business will know where to get help

- Infographic for business 'Who to contact about What?' in Access Canberra

### Information for business will be clearer

- Factsheets
- Compliance checklists
- Update existing web resources

### Business will only tell us once

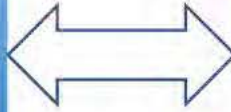
- Overlap and duplication for business across ACT Government

### We will say 'yes' whenever we can

- 'sandbox' pilot to trial new regulatory approaches

# Potential Future Reforms

## Policy and Legislation



## Business Experience and Regulator Performance

### We will manage the stock of existing regulation

- Review of ACT statute book to ensure technology neutral legislation
- Review of ACT / NSW cross border alignment in legislation and associated regulatory practice
- On Demand Transport Industry
- Security of Payments laws
- Motor Vehicle Repairers
- stewardship role for regulators and Ministers to actively manage the regulatory framework
- Better Regulation Best Practice Framework

### We will manage the flow of new regulation

- Better Regulation Best Practice Framework
- measure for assessing cumulative burden on business
- Pilot NZ Rules as Code approach to regulation

Events approvals?

Flexibility in licences renewal periods

How to start, run and grow a business web page

Insurance

### We will better understand the experiences of business

- measure of business experience with government which can be assessed over time

### We will be transparent and consistent

- statutory process for assessing performance of regulators
- standard suite of regulatory powers
- statutory obligation to issue factsheets and guidelines

### Information for business will be clearer

- Online business licence finder
- Single online portal for business to conduct all their business with government

### Business will know where to get help

- Concierge/help desk for small business to navigate compliance obligations across ACT government

### Approvals will be faster

- Fast lane for small business approvals

### Business will only tell us once

- Overlap and duplication for business across ACT and Cth Government
- Creation of digital identity for business

## Stuart, Katharine

---

**From:** Engele, Sam  
**Sent:** Wednesday, 2 March 2022 5:35 PM  
**To:** Kalleske, Sarah  
**Subject:** For the meeting with Kathy on the Draft Discovery Report

OFFICIAL: Sensitive

Sarah,

Could you add in the following email to the package. We've been working iteratively with the Minister on how the report is presented and her comments on the structure are below.

Sam

---

**From:** Kelly, Briega <Briega.Kelly@act.gov.au> **On Behalf Of** Better Regulation Taskforce  
**Sent:** Wednesday, 2 March 2022 3:12 PM  
**To:** Engele, Sam <Sam.Engele@act.gov.au>  
**Subject:** FW: Draft Discovery Report

OFFICIAL: Sensitive

FYI

---

**From:** Saunders, Joe <[Joe.Saunders@act.gov.au](mailto:Joe.Saunders@act.gov.au)>  
**Sent:** Tuesday, 1 March 2022 8:53 PM  
**To:** Clapham, David <[David.Clapham@act.gov.au](mailto:David.Clapham@act.gov.au)>; ACDLO <[ACDLO@act.gov.au](mailto:ACDLO@act.gov.au)>; Argy, Nicholas <[Nicholas.Argy@act.gov.au](mailto:Nicholas.Argy@act.gov.au)>  
**Cc:** Chesworth, Fiona <[Fiona.Chesworth@act.gov.au](mailto:Fiona.Chesworth@act.gov.au)>; Better Regulation Taskforce <[BetterRegulationTaskforce@act.gov.au](mailto:BetterRegulationTaskforce@act.gov.au)>  
**Subject:** RE: Draft Discovery Report

Hi David, Fiona and team

Thanks again for sending this through and for the significant work that went into it. Copied below is the Minister's feedback.

Some of it is what was discussed at today's briefing, but the substantive piece is under the Findings/What we heard subheading. As you'll see, the feedback is that everything is there content wise, but structurally the Minister would prefer for that content to be organised by theme or matter, rather than organised by 'work source'.

Separately, I'm not sure whether this instruction has come through to directorates yet, but our understanding is that substantive policy/strategy documents for cabinet consideration need to go to ERC first. Not as a business case seeking funding, but so that ERC considers the potential fiscal implications at a broad level and then provides covering advice (for example, acknowledging that the proposed work program has certain fiscal implications) that accompanies the document moving to full cabinet consideration. I think the Discovery Report fits into the sorts of documents this policy applies to so, subject to you receiving contrary advice from cabinet office, I think ERC consideration is the first step. (Again, to be completely clear, this is outside the Budget process.)

We've got the cabinet number request form with us – given the above feedback, grateful if you could let me know whether <sup>Sch 1 1.6</sup> remains achievable for a cabinet date (and in any case, if it needs to go to ERC first, I think we might be at the whims of ERC dates).

Thanks again and kind regards

Joe

\*\*\*\*\*

## General

- Language
  - o Review tone, particularly around what Government 'needs' to do, and how some behaviours are perceived
  - o "We will" language not ideal and then goes into outcomes which are a little vague – think we can strengthen the outcomes
- Should state somewhere early that the phases are not necessarily distinct ie there is overlap between Phase 1 and 2

## Introduction

- Good

## Purpose

- See below

## Business landscape chapter

- Can probably all be moved to an appendix with some high level comments that can sit under 'Purpose'

## What is regulation?

- Include stronger elements about the benefits of regulation

## Managing the cumulative burden of regulation

- Change this heading/delete heading
- Shorten this
- Final paragraph can probably be put under 'Purpose'

## Findings/What we heard

- I think what has occurred here is that we have framed this in terms of the *work* (legislation review, discovery, scan across other jurisdictions) that was undertaken and the *themes* that arose in each part of the work. However, I think it would be better framed as the *themes* that we have identified from the work, and what the work threw up/the opportunities that came through. This will make it more joined together, will make analysis easier, and will make the work program easier to understand going forward. I appreciate that different (and some overlapping) themes were identified under each body of work, but I think we can probably put all of what we heard across all three bodies of work and pull out the themes. **This is not a rewrite, just a restructure.**
- In practical terms, the headings would look like:
- STREAM 1: Policy and Legislation:
  - o Theme 1: Procurement
    - What we heard
    - Legislative review
    - Environmental scan
  - o Theme 2: Night time economy
    - What we heard
    - Legislative review
    - Environmental scan
  - o Theme 3:
  - o And so on (acknowledging that it may be the case that not every theme has substantive input from one of the three 'work sources').
- STREAM 2: Business experience and regulator performance:
  - o Theme 1: Enhance business understanding of government and government understanding of business
    - What we heard
    - Legislative review
    - Environmental scan
  - o Theme 2: Simplify government-business interactions [I am not wedded to any of these as themes, using as example only]



- What we heard
- Legislative review
- Environmental scan
- And so on. There will be fewer – even as few as 2 or 3 – themes here I suspect, as more things will come under fewer headings. For some of the themes, nothing would have been thrown up in the legislative review, for example.

#### **Better Regulation Agenda**

- With the above having been restructured, we can detail that Streams 1 and 2 will operate concurrently, and we will be tackling the first two themes under each stream for the next 12 months
- This restructure should also make it much easier to revisit the diagram with the streams (which I do want to be vertical) and will help with the level of detail – more than in the last version I saw, but less than in the first version.
- We should include some detail on how we will measure the impact of the changes we intend to make.

#### **Interim reporting**

- Flag that this is the discovery report and has identified the areas of work, and provides the first 12 months of work
- We will provide an update in the form of an interim report in 12 months' time (which will go to Cabinet first), and this will detail what's been done to date and the next themes that will be tackled

---

**From:** Clapham, David <[David.Clapham@act.gov.au](mailto:David.Clapham@act.gov.au)>

**Sent:** Monday, 28 February 2022 10:30 AM

**To:** ACDLO <[ACDLO@act.gov.au](mailto:ACDLO@act.gov.au)>; Argy, Nicholas <[Nicholas.Argy@act.gov.au](mailto:Nicholas.Argy@act.gov.au)>; Saunders, Joe <[Joe.Saunders@act.gov.au](mailto:Joe.Saunders@act.gov.au)>

**Cc:** Chesworth, Fiona <[Fiona.Chesworth@act.gov.au](mailto:Fiona.Chesworth@act.gov.au)>; Better Regulation Taskforce <[BetterRegulationTaskforce@act.gov.au](mailto:BetterRegulationTaskforce@act.gov.au)>

**Subject:** FW: Draft Discovery Report

**OFFICIAL: Sensitive**

Dear Nick and Joe

As discussed with Nick on Friday, attached is the Draft Discovery Report for discussion at tomorrow's update briefing with the Minister.

You will note that there is a place holder for a statistic on the OAT activations and we will insert this figure as soon as we have it. We are also taking advice from CMTEDD comms re presentation and readability.

Morgan – grateful for your assistance in making this available to Nick and Joe.

Many thanks

**David Clapham** | Executive Branch Manager

Better Regulation Taskforce | Economic and Regional Policy Branch | **Policy & Cabinet Division**

☎ 02 6205 7261 | **Chief Minister, Treasury & Economic Development Directorate** | ACT Government  
Level 5, 220 London Circuit | GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)

## Stuart, Katharine

---

**From:** Chesworth, Fiona  
**Sent:** Monday, 28 February 2022 5:17 PM  
**To:** Better Regulation Taskforce  
**Cc:** Wilkie, Rachel; Kelly, Briege  
**Subject:** FW: Chesworth, Fiona shared "Draft Discovery Phase Report" with you.

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

CABINET

---

**From:** Chesworth, Fiona  
**Sent:** Monday, 28 February 2022 5:07 PM  
**To:** Potter, Chantel <Chantel.Potter@act.gov.au>; Lhuede, Nick <Nick.Lhuede@act.gov.au>; Pryce, David <David.Pryce@act.gov.au>; McKinnon, Margaret <Margaret.McKinnon@act.gov.au>; Martin, Victor (Health) <Victor.Martin@act.gov.au>; Rynehart, Josh <Josh.Rynehart@act.gov.au>; Cubin, Derise <Derise.Cubin@act.gov.au>; Grundy, Samantha <Samantha.Grundy@act.gov.au>; Bamford, Rebecca <Rebecca.Bamford@act.gov.au>; Colussi, David <David.Colussi@act.gov.au>; Springett, Emily <Emily.Springett@act.gov.au>; Kobus, Jonathan <Jonathan.Kobus@act.gov.au>; Stewart-Moore, Karen <Karen.Stewart-Moore@act.gov.au>; Kerkow, Kyla <Kyla.Kerkow@act.gov.au>; Vroombout, Sue <Sue.Vroombout@act.gov.au>; McAulay, Heather <Heather.McAulay@act.gov.au>; Lawrence, Ian <Ian.Lawrence@act.gov.au>; Clapham, David <David.Clapham@act.gov.au>  
**Subject:** Chesworth, Fiona shared "Draft Discovery Phase Report" with you.



### Chesworth, Fiona shared a file with you

Hello

Further to David Clapham's email, here is the link to the draft Discovery Report.  
Please let me know if there are any problems in accessing this.

Fiona



[Draft Discovery Phase Report](#)



This link only works for the direct recipients of this message.

Open



[Privacy Statement](#)

**ACT** Government

## Stuart, Katharine

---

**From:** Clapham, David  
**Sent:** Monday, 28 February 2022 10:30 AM  
**To:** ACDLO; Argy, Nicholas; Saunders, Joe  
**Cc:** Chesworth, Fiona; Better Regulation Taskforce  
**Subject:** FW: Draft Discovery Report  
**Attachments:** WIRE - CM22-15178 Attach A - Discovery Phase Report.tr5

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

OFFICIAL: Sensitive

Dear Nick and Joe

As discussed with Nick on Friday, attached is the Draft Discovery Report for discussion at tomorrow's update briefing with the Minister.

You will note that there is a place holder for a statistic on the OAT activations and we will insert this figure as soon as we have it. We are also taking advice from CMTEDD comms re presentation and readability.

Morgan – grateful for your assistance in making this available to Nick and Joe.

Many thanks

**David Clapham** | Executive Branch Manager  
Better Regulation Taskforce | Economic and Regional Policy Branch | **Policy & Cabinet Division**  
☎ 02 6205 7261 | **Chief Minister, Treasury & Economic Development Directorate** | ACT Government  
Level 5, 220 London Circuit | GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)

## Stuart, Katharine

---

**From:** Clapham, David  
**Sent:** Thursday, 24 February 2022 3:02 PM  
**To:** Chesworth, Fiona; Wilkie, Rachel  
**Cc:** Better Regulation Taskforce  
**Subject:** FW: reg perf work stream DC attempt

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

OFFICIAL

---

**From:** McKinnon, Margaret <Margaret.McKinnon@act.gov.au>  
**Sent:** Thursday, 24 February 2022 11:54 AM  
**To:** Springett, Emily <Emily.Springett@act.gov.au>; Pryce, David <David.Pryce@act.gov.au>; Clapham, David <David.Clapham@act.gov.au>; Engele, Sam <Sam.Engele@act.gov.au>  
**Cc:** AC - Office of the DDG <ACOfficeoftheDDG@act.gov.au>; Cubin, Derise <Derise.Cubin@act.gov.au>; Rynehart, Josh <Josh.Rynehart@act.gov.au>; Chesworth, Fiona <Fiona.Chesworth@act.gov.au>  
**Subject:** RE: reg perf work stream DC attempt

OFFICIAL

I ain't a wordsmith so I have left it RIGHT ALONE. A couple of points for consideration/parking

1. Nick Iheude is about to enjoy an auditors recommendation that there needs to be an update from the relevant Minister to the letter of expectation to him as the Constructions Occupation Licencing Registrar. It occurred to me that this might be something that is a good starting point for other regulatory functions – and leads us to reaffirm much of what we already do and puts in aspirations – and even seeking feedback from business on the drafts.
2. I copied in Fiona on the graduate project we have about our performance indicators – in case there is some option for our Micromax business survey to be replaced/supplement business sentiment. Not tomorrow – however sometime in the future.
3. Em – can we have a discussion about whether we should survey the 12,457 businesses you email regularly during COVID to see whether this is how they prefer to receive information, whether they value it because it is plain English and timely and RELEVANT. This might help us with the evidence base of what business want and how. Because otherwise we risk doing 476 factsheets and actually people just want five lines saying “what does this mean for my business”.

Margaret

**Margaret McKinnon | Chief Operating Officer**

Phone: [02 6222 6000](tel:0262226000) | Email: [Margaret.McKinnon@act.gov.au](mailto:Margaret.McKinnon@act.gov.au)

**Access Canberra | Chief Minister Treasury and Economic Development Directorate | ACT Government**

Cosmopolitan Building, 21 Bowes Street, Woden | GPO Box 158, Canberra ACT 2601 | [www.act.gov.au/accessCBR](http://www.act.gov.au/accessCBR)



---

**From:** Springett, Emily <[Emily.Springett@act.gov.au](mailto:Emily.Springett@act.gov.au)>  
**Sent:** Thursday, 24 February 2022 10:49 AM  
**To:** Pryce, David <[David.Pryce@act.gov.au](mailto:David.Pryce@act.gov.au)>; Clapham, David <[David.Clapham@act.gov.au](mailto:David.Clapham@act.gov.au)>; Engele, Sam <[Sam.Engele@act.gov.au](mailto:Sam.Engele@act.gov.au)>  
**Cc:** AC - Office of the DDG <[ACOfficeoftheDDG@act.gov.au](mailto:ACOfficeoftheDDG@act.gov.au)>; McKinnon, Margaret <[Margaret.McKinnon@act.gov.au](mailto:Margaret.McKinnon@act.gov.au)>; Cubin, Derise <[Derise.Cubin@act.gov.au](mailto:Derise.Cubin@act.gov.au)>; Rynehart, Josh <[Josh.Rynehart@act.gov.au](mailto:Josh.Rynehart@act.gov.au)>  
**Subject:** RE: reg perf work stream DC attempt

OFFICIAL

Hi David C

Also sending through my feedback as discussed yesterday – please see tracked additions/suggestion or edits.

Also happy to discuss. Hope it assists.

Emily

---

**From:** Pryce, David <[David.Pryce@act.gov.au](mailto:David.Pryce@act.gov.au)>  
**Sent:** Thursday, 24 February 2022 10:30 AM  
**To:** Clapham, David <[David.Clapham@act.gov.au](mailto:David.Clapham@act.gov.au)>; Engele, Sam <[Sam.Engele@act.gov.au](mailto:Sam.Engele@act.gov.au)>  
**Cc:** AC - Office of the DDG <[ACOfficeoftheDDG@act.gov.au](mailto:ACOfficeoftheDDG@act.gov.au)>; McKinnon, Margaret <[Margaret.McKinnon@act.gov.au](mailto:Margaret.McKinnon@act.gov.au)>; Cubin, Derise <[Derise.Cubin@act.gov.au](mailto:Derise.Cubin@act.gov.au)>; Rynehart, Josh <[Josh.Rynehart@act.gov.au](mailto:Josh.Rynehart@act.gov.au)>; Springett, Emily <[Emily.Springett@act.gov.au](mailto:Emily.Springett@act.gov.au)>  
**Subject:** reg perf work stream DC attempt

OFFICIAL

Hi David,

Thanks again for taking the time to listen to our views and take these on board.

Some quick feedback via tracked changes. I think the wording (as indicated) could be improved here.

Happy to discuss.

David Pryce | Deputy Director-General  
Head of Access Canberra  
Phone: 02 6205 9898 | Email: [david.pryce@act.gov.au](mailto:david.pryce@act.gov.au)  
Access Canberra | Chief Minister Treasury and Economic Development Directorate | ACT Government  
GPO Box 158, Canberra City, ACT 2601 | [www.act.gov.au/accessCBR](http://www.act.gov.au/accessCBR)



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## Stuart, Katharine

---

**From:** Springett, Emily  
**Sent:** Tuesday, 22 February 2022 5:03 PM  
**To:** Clapham, David  
**Subject:** FW: TO NOTE: Workstreams BRT updated  
**Attachments:** Workstreams BRT.docx

OFFICIAL: Sensitive

Hi David

Can you keep me in the loop and engaged in these discussions?

As well as the COVID-19 Compliance Team, I also head up Events and Business Team in Access CBR and Comms and Business Engagement, where much of this will land and be delivered on the AC end....so timely for me to be included!

Thanks  
Emily

Emily Springett | Executive Branch Manager, Engagement, Compliance and COVID-19 Response, Access Canberra  
Phone: 6205 9093 | Mobile: Sch 2.2(a)(iii) | [emily.springett@act.gov.au](mailto:emily.springett@act.gov.au)  
Chief Minister, Treasury and Economic Development Directorate | ACT Government  
Cosmopolitan Centre, Woden | GPO Box 158 Canberra City ACT 2601 | [www.act.gov.au/accessCBR](http://www.act.gov.au/accessCBR)



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---

**From:** Clapham, David <[David.Clapham@act.gov.au](mailto:David.Clapham@act.gov.au)>  
**Sent:** Friday, 18 February 2022 5:58 PM  
**To:** Rynehart, Josh <[Josh.Rynehart@act.gov.au](mailto:Josh.Rynehart@act.gov.au)>; Cubin, Derise <[Derise.Cubin@act.gov.au](mailto:Derise.Cubin@act.gov.au)>; Pryce, David <[David.Pryce@act.gov.au](mailto:David.Pryce@act.gov.au)>; McKinnon, Margaret <[Margaret.McKinnon@act.gov.au](mailto:Margaret.McKinnon@act.gov.au)>  
**Cc:** Engele, Sam <[Sam.Engele@act.gov.au](mailto:Sam.Engele@act.gov.au)>; Chesworth, Fiona <[Fiona.Chesworth@act.gov.au](mailto:Fiona.Chesworth@act.gov.au)>; Better Regulation Taskforce <[BetterRegulationTaskforce@act.gov.au](mailto:BetterRegulationTaskforce@act.gov.au)>; Wilkie, Rachel <[Rachel.Wilkie@act.gov.au](mailto:Rachel.Wilkie@act.gov.au)>  
**Subject:** FW: Workstreams BRT updated

OFFICIAL: Sensitive

Afternoon all

The BRT work program Sam Engele distributed to you earlier this week has been reformatted following our meeting with Minister Cheyne this week.

We are very conscious that the expression of the "Business Experience and Regulator Performance" stream requires close engagement with Access Canberra and that there may be sensitivities and context that this fails to take account of.

I am sending this through ahead of our conversation on Tuesday. Josh and Derise, perhaps we could have a discussion at our catch up on Monday as well?

Thank you all for your continued engagement – it is greatly appreciated.

Best

David

**David Clapham** | Executive Branch Manager

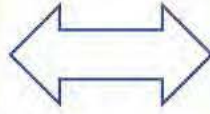
Better Regulation Taskforce | Economic and Regional Policy Branch | **Policy & Cabinet Division**

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# Better Regulation Taskforce Work Program

## Policy and Legislation



## Business Experience and Regulator Performance

### We will put in place a best practice procurement framework for SMEs

- Review of procurement legislation, policies and administrative with an SME lens

### We will enhance labour mobility

- Ready the ACT for the commencement of automatic mutual recognition of occupational licensing.

### We will manage the stock of existing regulation

#### We will make improvements to existing frameworks

- Employment agents licensing
- Modernise the execution of statutory declarations and deeds
- Model Rules for Incorporated Associations
- Removal of references to outmoded payment methods
- Responsible service of alcohol improvements

### We will undertake industry-focussed review and reform

- review the legislative, regulatory and administrative arrangements for the nighttime/entertainment economy

### We will better understand the experiences of business

- Survey of business sentiment to measure the quantity and quality of interactions of business with government.
- User experience mapping of key business personas
- Pilot a model for human centred design for new regulation

### Business will know where to get help

- Infographic for business 'Who to contact about What?' in Access Canberra

### Information for business will be clearer

- Factsheets
- Compliance checklists
- Update existing web resources

### Business will only tell us once

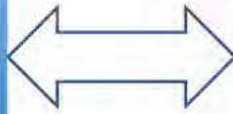
- Overlap and duplication for business across ACT Government

### We will say 'yes' whenever we can

- 'sandbox' pilot to trial new regulatory approaches

# Potential Future Reforms

## Policy and Legislation



## Business Experience and Regulator Performance

### We will manage the stock of existing regulation

- Review of ACT statute book to ensure technology neutral legislation
- Review of ACT / NSW cross border alignment in legislation and associated regulatory practice
- On Demand Transport Industry
- Security of Payments laws
- Motor Vehicle Repairers
- stewardship role for regulators and Ministers to actively manage the regulatory framework
- Better Regulation Best Practice Framework

### We will manage the flow of new regulation

- Better Regulation Best Practice Framework
- measure for assessing cumulative burden on business
- Pilot NZ Rules as Code approach to regulation

Events approvals?

Flexibility in licences renewal periods

How to start, run and grow a business web page

Insurance

### We will better understand the experiences of business

- measure of business experience with government which can be assessed over time

### We will be transparent and consistent

- statutory process for assessing performance of regulators
- standard suite of regulatory powers
- statutory obligation to issue factsheets and guidelines

### Information for business will be clearer

- Online business licence finder
- Single online portal for business to conduct all their business with government

### Business will know where to get help

- Concierge/help desk for small business to navigate compliance obligations across ACT government

### Approvals will be faster

- Fast lane for small business approvals

### Business will only tell us once

- Overlap and duplication for business across ACT and Cth Government
- Creation of digital identity for business

## Stuart, Katharine

---

**From:** Clapham, David  
**Sent:** Friday, 18 February 2022 5:58 PM  
**To:** Rynehart, Josh; Cubin, Derise; Pryce, David; McKinnon, Margaret  
**Cc:** Engele, Sam; Chesworth, Fiona; Better Regulation Taskforce; Wilkie, Rachel  
**Subject:** FW: Workstreams BRT updated  
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OFFICIAL: Sensitive

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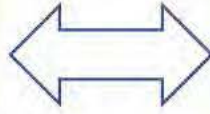
Best

David

**David Clapham** | Executive Branch Manager  
Better Regulation Taskforce | Economic and Regional Policy Branch | **Policy & Cabinet Division**  
☎ 02 6205 7261 | **Chief Minister, Treasury & Economic Development Directorate** | ACT Government  
Level 5, 220 London Circuit | GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)

# Better Regulation Taskforce Work Program

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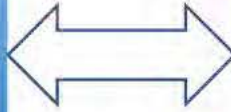
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- Creation of digital identity for business

## Stuart, Katharine

---

**From:** Chesworth, Fiona  
**Sent:** Friday, 11 March 2022 1:21 PM  
**To:** Wilkie, Rachel  
**Cc:** Clapham, David  
**Subject:** FW: Chesworth, Fiona shared "Discovery Phase Report " with you.  
**Attachments:** Measure Snapshots - attachment to sub.docx

OFFICIAL

---

**From:** Kerkow, Kyla <Kyla.Kerkow@act.gov.au>  
**Sent:** Friday, 11 March 2022 1:17 PM  
**To:** Chesworth, Fiona <Fiona.Chesworth@act.gov.au>  
**Cc:** Mirzabegian, Sanaz <Sanaz.Mirzabegian@act.gov.au>  
**Subject:** RE: Chesworth, Fiona shared "Discovery Phase Report " with you.

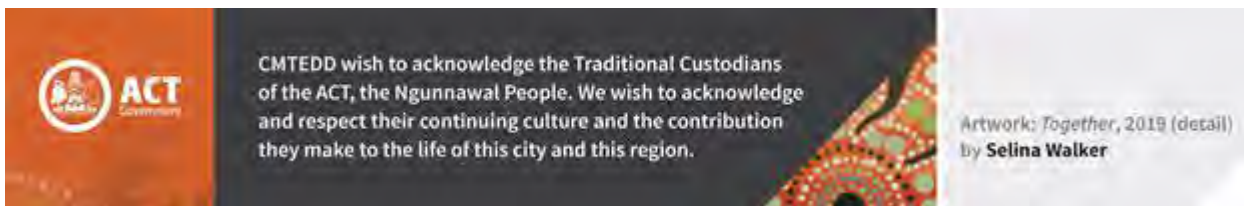
OFFICIAL

Hi Fiona,

I also couldn't save edits in the one drive so I have attached suggested changes/ comments in the measures snapshots document.

Kind regards,

Kyla Kerkow (she/her) | A/g Executive Branch Manager  
Phone: 02 6207 6709 | Email: [kyla.kerkow@act.gov.au](mailto:kyla.kerkow@act.gov.au)  
Procurement ACT | Chief Minister, Treasury and Economic Development Directorate | ACT Government  
Ngunnawal Country, Level 10, 5 Constitution Ave, Canberra | GPO Box 158 CANBERRA ACT 2601 | [www.act.gov.au](http://www.act.gov.au)



---

**From:** Mirzabegian, Sanaz <Sanaz.Mirzabegian@act.gov.au>  
**Sent:** Friday, 11 March 2022 12:56 PM  
**To:** Chesworth, Fiona <Fiona.Chesworth@act.gov.au>  
**Cc:** Kerkow, Kyla <Kyla.Kerkow@act.gov.au>  
**Subject:** RE: Chesworth, Fiona shared "Discovery Phase Report " with you.

OFFICIAL

Hi Fiona, very minor changes – apologies I did not seem to be able to save my edits, so here is a screen shot

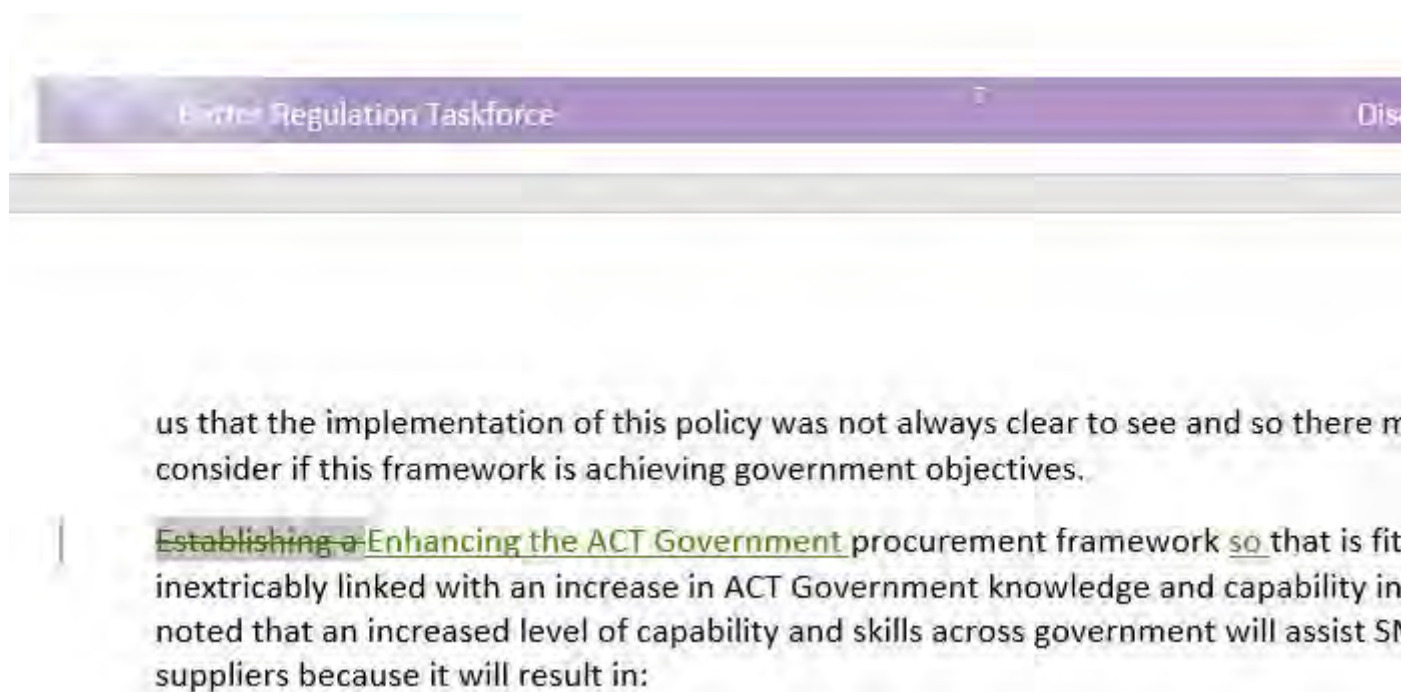
Page 7:

## SME Procurement

During our stakeholder consultation, we heard that business, particularly small and medium (SMEs), expressed a strong desire for assistance in understanding government procurement as well as support when bidding for government procurement opportunities.

We heard that the ACT Government procurement system framework can be confusing for business. Government procurement has its own language, processes and requirements. This can make it difficult for business to recognise the opportunities available, and even when they do, to understand how those opportunities. Confusion and a lack of clarity extends to the operation of panels (business about how and when they are refreshed), as well as the processes around the ability to make bids.

Page 8:



Page: 20:

- Innovation sector – 23 June 2021
- **ACT Procurement ACT** – 28 July 2021

These workshops were targeted at sophisticated small businesses, large businesses, peak bodies, associations, and government stakeholders. The workshops explored issues that currently inform business practice or create substantial regulatory experience and how they might be addressed. We developed interactive agendas for these workshops to address topics of interest. Workshop facilitators and expert facilitators and insights were captured around the key themes to emerge through the workshops.

### **ACT Government Stakeholders – 29 March 2021**

This internal workshop introduced the Taskforce to key business areas across ACT Government. The workshop helped provide focus to the Taskforce's program of work, informed stakeholder perspectives, and provided the regulator's perspective on optimising regulator efficiency and effectiveness.

### **Night-time economy and entertainment sector – 30 April 2021**

As demonstrated by the economic indicators, the ACT night-time economy and entertainment sector was particularly hard hit throughout COVID-19 and continued to manage public health restrictions while most of Canberra had returned to low or zero restrictions. Attendees comprised representatives from business peak bodies, as well as business owners and managers from the relevant sectors.

### **Innovation sector – 23 June 2021**

This workshop focused on the regulatory barriers facing the innovation sector, defined as early stage start-ups, green economy businesses, tech and cyber security businesses and higher education. The workshop was developed and delivered in partnership with the Canberra Innovation Network.

### **ACT Procurement ACT – 28 July 2021**

The Taskforce, with the support of Procurement ACT, held a workshop focused on government procurement.

Kind Regards

**Sanaz Mirzabegian | Executive Group Manager (a/g), Procurement Reform**

Phone: 02 6205 3777 | Email: [sanaz.mirzabegianb@act.gov.au](mailto:sanaz.mirzabegianb@act.gov.au)

**Chief Minister, Treasury and Economic Development Directorate | ACT Government**

GPO Box 158, Canberra City | [act.gov.au](http://act.gov.au)

---

**From:** Chesworth, Fiona <[Fiona.Chesworth@act.gov.au](mailto:Fiona.Chesworth@act.gov.au)>

**Sent:** Thursday, 10 March 2022 6:19 PM

**To:** Moroney, Rebecca (Health) <[Rebecca.L.Moroney@act.gov.au](mailto:Rebecca.L.Moroney@act.gov.au)>; Ng, Daniel <[Daniel.Ng@act.gov.au](mailto:Daniel.Ng@act.gov.au)>; Hakelis, Robyn <[Robyn.Hakelis@act.gov.au](mailto:Robyn.Hakelis@act.gov.au)>; Muscat, Linda <[Linda.Muscat@act.gov.au](mailto:Linda.Muscat@act.gov.au)>; Vaile, Jodie <[Jodie.Vaile@act.gov.au](mailto:Jodie.Vaile@act.gov.au)>; Mangeruca, Giuseppe <[Giuseppe.Mangeruca@act.gov.au](mailto:Giuseppe.Mangeruca@act.gov.au)>; Potter, Chantel <[Chantel.Potter@act.gov.au](mailto:Chantel.Potter@act.gov.au)>; Lhuede, Nick <[Nick.Lhuede@act.gov.au](mailto:Nick.Lhuede@act.gov.au)>; Pryce, David <[David.Pryce@act.gov.au](mailto:David.Pryce@act.gov.au)>; McKinnon, Margaret <[Margaret.McKinnon@act.gov.au](mailto:Margaret.McKinnon@act.gov.au)>; Martin, Victor (Health) <[Victor.Martin@act.gov.au](mailto:Victor.Martin@act.gov.au)>; Rynehart, Josh <[Josh.Rynehart@act.gov.au](mailto:Josh.Rynehart@act.gov.au)>; Cubin, Derise <[Derise.Cubin@act.gov.au](mailto:Derise.Cubin@act.gov.au)>; Grundy, Samantha <[Samantha.Grundy@act.gov.au](mailto:Samantha.Grundy@act.gov.au)>; Bamford, Rebecca <[Rebecca.Bamford@act.gov.au](mailto:Rebecca.Bamford@act.gov.au)>; Colussi, David <[David.Colussi@act.gov.au](mailto:David.Colussi@act.gov.au)>; Springett, Emily <[Emily.Springett@act.gov.au](mailto:Emily.Springett@act.gov.au)>; Kobus, Jonathan <[Jonathan.Kobus@act.gov.au](mailto:Jonathan.Kobus@act.gov.au)>; Stewart-Moore, Karen <[Karen.Stewart-Moore@act.gov.au](mailto:Karen.Stewart-Moore@act.gov.au)>; Kerkow, Kyla <[Kyla.Kerkow@act.gov.au](mailto:Kyla.Kerkow@act.gov.au)>; Vroombout, Sue <[Sue.Vroombout@act.gov.au](mailto:Sue.Vroombout@act.gov.au)>; McAulay, Heather <[Heather.McAulay@act.gov.au](mailto:Heather.McAulay@act.gov.au)>; Lawrence, Ian <[Ian.Lawrence@act.gov.au](mailto:Ian.Lawrence@act.gov.au)>; Chan, Yu-Lan <[Yu-Lan.Chan@act.gov.au](mailto:Yu-Lan.Chan@act.gov.au)>; Short, Rachael <[Rachael.Short@act.gov.au](mailto:Rachael.Short@act.gov.au)>; Mirzabegian, Sanaz <[Sanaz.Mirzabegian@act.gov.au](mailto:Sanaz.Mirzabegian@act.gov.au)>; Callaghan, Thomas <[Thomas.Callaghan@act.gov.au](mailto:Thomas.Callaghan@act.gov.au)>; Maclachlan, Hugh



<[Hugh.Maclachlan@act.gov.au](mailto:Hugh.Maclachlan@act.gov.au)>; Mahar, Nicole <[Nicole.Mahar@act.gov.au](mailto:Nicole.Mahar@act.gov.au)>; Polglase, David <[David.Polglase@act.gov.au](mailto:David.Polglase@act.gov.au)>; Clapham, David <[David.Clapham@act.gov.au](mailto:David.Clapham@act.gov.au)>; Wilkie, Rachel <[Rachel.Wilkie@act.gov.au](mailto:Rachel.Wilkie@act.gov.au)>; Kelly, Briege <[Briege.Kelly@act.gov.au](mailto:Briege.Kelly@act.gov.au)>  
Subject: Chesworth, Fiona shared "Discovery Phase Report " with you.



## Chesworth, Fiona shared a file with you

Revised Discovery Report link attached.

Please let me know if you have any problems accessing these documents.

Fiona



[Discovery Phase Report](#)



This link only works for the direct recipients of this message.

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ACT Government

## Stuart, Katharine

---

**From:** Chesworth, Fiona  
**Sent:** Friday, 11 March 2022 1:04 PM  
**To:** Wilkie, Rachel  
**Subject:** FW: Chesworth, Fiona shared "Discovery Phase Report " with you.

OFFICIAL

---

**From:** Mirzabegian, Sanaz <Sanaz.Mirzabegian@act.gov.au>  
**Sent:** Friday, 11 March 2022 12:56 PM  
**To:** Chesworth, Fiona <Fiona.Chesworth@act.gov.au>  
**Cc:** Kerkow, Kyla <Kyla.Kerkow@act.gov.au>  
**Subject:** RE: Chesworth, Fiona shared "Discovery Phase Report " with you.

OFFICIAL

Hi Fiona, very minor changes – apologies I did not seem to be able to save my edits, so here is a screen shot

Page 7:

## SME Procurement

During our stakeholder consultation, we heard that business, particularly small and medium (SMEs), expressed a strong desire for assistance in understanding government procurement as well as support when bidding for government procurement opportunities.

We heard that the ACT Government procurement system framework can be confusing for business. Government procurement has its own language, processes and requirements. This can make it difficult for business to recognise the opportunities available, and even when they do, to understand how to access those opportunities. Confusion and a lack of clarity extends to the operation of panels (businesses unsure about how and when they are refreshed), as well as the processes around the ability to make bids.

Page 8:

us that the implementation of this policy was not always clear to see and so there need to consider if this framework is achieving government objectives.

~~Establishing a~~ **Enhancing the ACT Government** procurement framework so that is fit inextricably linked with an increase in ACT Government knowledge and capability in noted that an increased level of capability and skills across government will assist SME suppliers because it will result in:

Page: 20:

Innovation sector – 23 June 2021

- ~~ACT~~ Procurement **ACT** – 28 July 2021

These workshops were targeted at sophisticated small businesses, large businesses, peak bodies, associations, and government stakeholders. The workshops explored issues that currently impact business practice or create subpar regulatory experience and how they might be addressed. The Taskforce developed interactive agendas for these workshops to address topics of interest. Workshops were facilitated by an expert facilitator and insights were captured around the key themes to emerge through the workshops.

### **ACT Government Stakeholders – 29 March 2021**

This internal workshop introduced the Taskforce to key business areas across ACT Government. The workshop helped provide focus to the Taskforce's program of work, informed stakeholder engagement, and provided the regulator's perspective on optimising regulator efficiency and effectiveness.

### **Night-time economy and entertainment sector – 30 April 2021**

As demonstrated by the economic indicators, the ACT night-time economy and entertainment sector was particularly hard hit throughout COVID-19 and continued to manage public health restrictions while most of Canberra had returned to low or zero restrictions. Attendees comprised representatives from business peak bodies, as well as business owners and managers from the relevant sectors.

### **Innovation sector – 23 June 2021**

This workshop focused on the regulatory barriers facing the innovation sector, defined as early stage start-ups, green economy businesses, tech and cyber security businesses and higher education. The workshop was developed and delivered in partnership with the Canberra Innovation Network.

### **~~ACT~~ Procurement **ACT** – 28 July 2021**

The Taskforce, with the support of Procurement ACT, held a workshop focused on government procurement.

Kind Regards

Sanaz Mirzabegian | Executive Group Manager (a/g), Procurement Reform  
Phone: 02 6205 3777 | Email: [sanaz.mirzabegianb@act.gov.au](mailto:sanaz.mirzabegianb@act.gov.au)  
Chief Minister, Treasury and Economic Development Directorate | ACT Government  
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From: Chesworth, Fiona <[Fiona.Chesworth@act.gov.au](mailto:Fiona.Chesworth@act.gov.au)>  
Sent: Thursday, 10 March 2022 6:19 PM  
To: Moroney, Rebecca (Health) <[Rebecca.L.Moroney@act.gov.au](mailto:Rebecca.L.Moroney@act.gov.au)>; Ng, Daniel <[Daniel.Ng@act.gov.au](mailto:Daniel.Ng@act.gov.au)>; Hakelis, Robyn <[Robyn.Hakelis@act.gov.au](mailto:Robyn.Hakelis@act.gov.au)>; Muscat, Linda <[Linda.Muscat@act.gov.au](mailto:Linda.Muscat@act.gov.au)>; Vaile, Jodie <[Jodie.Vaile@act.gov.au](mailto:Jodie.Vaile@act.gov.au)>; Mangeruca, Giuseppe <[Giuseppe.Mangeruca@act.gov.au](mailto:Giuseppe.Mangeruca@act.gov.au)>; Potter, Chantel <[Chantel.Potter@act.gov.au](mailto:Chantel.Potter@act.gov.au)>; Lhuede, Nick <[Nick.Lhuede@act.gov.au](mailto:Nick.Lhuede@act.gov.au)>; Pryce, David <[David.Pryce@act.gov.au](mailto:David.Pryce@act.gov.au)>; McKinnon, Margaret <[Margaret.McKinnon@act.gov.au](mailto:Margaret.McKinnon@act.gov.au)>; Martin, Victor (Health) <[Victor.Martin@act.gov.au](mailto:Victor.Martin@act.gov.au)>; Rynehart, Josh <[Josh.Rynehart@act.gov.au](mailto:Josh.Rynehart@act.gov.au)>; Cubin, Derise <[Derise.Cubin@act.gov.au](mailto:Derise.Cubin@act.gov.au)>; Grundy, Samantha <[Samantha.Grundy@act.gov.au](mailto:Samantha.Grundy@act.gov.au)>; Bamford, Rebecca <[Rebecca.Bamford@act.gov.au](mailto:Rebecca.Bamford@act.gov.au)>; Colussi, David <[David.Colussi@act.gov.au](mailto:David.Colussi@act.gov.au)>; Springett, Emily <[Emily.Springett@act.gov.au](mailto:Emily.Springett@act.gov.au)>; Kobus, Jonathan <[Jonathan.Kobus@act.gov.au](mailto:Jonathan.Kobus@act.gov.au)>; Stewart-Moore, Karen <[Karen.Stewart-Moore@act.gov.au](mailto:Karen.Stewart-Moore@act.gov.au)>; Kerkow, Kyla <[Kyla.Kerkow@act.gov.au](mailto:Kyla.Kerkow@act.gov.au)>; Vroombout, Sue <[Sue.Vroombout@act.gov.au](mailto:Sue.Vroombout@act.gov.au)>; McAulay, Heather <[Heather.McAulay@act.gov.au](mailto:Heather.McAulay@act.gov.au)>; Lawrence, Ian <[Ian.Lawrence@act.gov.au](mailto:Ian.Lawrence@act.gov.au)>; Chan, Yu-Lan <[Yu-Lan.Chan@act.gov.au](mailto:Yu-Lan.Chan@act.gov.au)>; Short, Rachael <[Rachael.Short@act.gov.au](mailto:Rachael.Short@act.gov.au)>; Mirzabegian, Sanaz <[Sanaz.Mirzabegian@act.gov.au](mailto:Sanaz.Mirzabegian@act.gov.au)>; Callaghan, Thomas <[Thomas.Callaghan@act.gov.au](mailto:Thomas.Callaghan@act.gov.au)>; Maclachlan, Hugh <[Hugh.Maclachlan@act.gov.au](mailto:Hugh.Maclachlan@act.gov.au)>; Mahar, Nicole <[Nicole.Mahar@act.gov.au](mailto:Nicole.Mahar@act.gov.au)>; Polglase, David <[David.Polglase@act.gov.au](mailto:David.Polglase@act.gov.au)>; Clapham, David <[David.Clapham@act.gov.au](mailto:David.Clapham@act.gov.au)>; Wilkie, Rachel <[Rachel.Wilkie@act.gov.au](mailto:Rachel.Wilkie@act.gov.au)>; Kelly, Briega <[Briega.Kelly@act.gov.au](mailto:Briega.Kelly@act.gov.au)>  
Subject: Chesworth, Fiona shared "Discovery Phase Report " with you.



## Chesworth, Fiona shared a file with you

Revised Discovery Report link attached.

Please let me know if you have any problems accessing these documents.

Fiona



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## Stuart, Katharine

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**From:** Rynehart, Josh  
**Sent:** Friday, 11 March 2022 1:36 PM  
**To:** Chesworth, Fiona; Clapham, David  
**Subject:** FW: comments on the principles

OFFICIAL

Hi

Comments may be a bit dribs and drabs, but I want to get them to you with as much lead as possible.

Happy to chat

J

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**From:** Cubin, Derise <Derise.Cubin@act.gov.au>  
**Sent:** Friday, 11 March 2022 1:13 PM  
**To:** Rynehart, Josh <Josh.Rynehart@act.gov.au>  
**Subject:** comments on the principles

OFFICIAL

### Principle 1: Articulate the 'why'

· Regulation should only be introduced and retained where there is a clear need for government intervention – a clear problem to be addressed or a clear outcome the government is trying to achieve.

### Principle 2: Assess the impact

· As a fundamental part of the policy development for legislation and regulation, an assessment of the impact of regulation (including its impact on wellbeing), within the context of existing regulatory burden, should be undertaken.

· This impact should be considered as a part of the government decision making process, including a consideration of a range of feasible policy options – including non-regulatory approaches.

· The assessment should include an assessment of risk and a consideration of risk appetite and tolerance.

### Principle 3: Be accountable

· When the government makes decisions about regulation and regulatory approaches, the basis for those decisions and supporting evidence should be publicly available by default.

· Regulator **discretion** should be supported by transparency and accountability measures. **Does this refer to licence /compliance /enforcement decisions or all of these ? and what type of 'measures' are being considered.**

#### Principle 4: Make room for leading practices

- Regulation should allow regulators and regulated entities to innovate.
- Regulators should have access to a range of compliance and enforcement tools ( including administrative / civil /criminal enforcement regimes )

#### Principle 5: Put people at the centre

- Utilise human-centred design principles to ensure regulatory systems are effective and efficient.
- At all stages of the policy development and regulatory cycle, regular and effective consultation with stakeholders, especially regulated entities, should occur.

#### Principle 6: Easy to comply

- Regulation should be in plain language. *Suggestion Regulation Guidance*
- Government systems should support seamless interactions between government and regulated entities.

#### Principle 7: Remain effective

- Regulation should be monitored and evaluated periodically to simplify, reform, modernise or consolidate.
- Regulators should regularly assess their delivery approaches and impact on regulated entities. *How would this occur in practice & based on what criteria ?*

Derise Cubin | Executive Branch Manager  
Licensing and Registrations , Access Canberra  
Phone: 6205 3732 | Mobile: [Sch 2.2\(a\)\(ii\)](tel:62053732) | [derise.cubin@act.gov.au](mailto:derise.cubin@act.gov.au)  
Chief Minister, Treasury and Economic Development Directorate | ACT Government  
Cosmopolitan Centre, Woden | GPO Box 158 Canberra City ACT 2601 | [www.act.gov.au/accessCBR](http://www.act.gov.au/accessCBR)



**Stuart, Katharine**

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**From:** Bamford, Rebecca  
**Sent:** Tuesday, 8 March 2022 4:16 PM  
**To:** Clapham, David; Chesworth, Fiona  
**Cc:** Gianakis, Steven  
**Subject:** FW: INPUT SOUGHT - Draft Discovery Report

**CABINET**

Hi Fiona and David,

My apologies for not responding sooner, I just discovered this had remained in my drafts folder. Happy to discuss.

Here are some comments from the perspective of planning for entertainment:

| Page  | Reference  | Comment   |
|-------|--|---|
| 6     | Outdoor dining taskforce   | Missing number  |
| 15-16 | Project 1 – Regulation of the entertainment economy<br>“The review could examine legislation and regulatory practice in areas including land use, food and beverage regulation, and noise control. It may consider appropriate alternatives to arrangements currently requiring prior approval.” | Note this project as key area for reform, as identified by the BRT and stakeholders.<br>The BRT should note work already underway and proposed by EPSDD regarding the entertainment precinct, particularly planning and environment protection (noise) regulatory reviews, which are being informed by technical consultant work. Project scope should be carefully managed to avoid overlap or non-compatible outcomes.  |
| 30    | Stock management through industry-focused review and reform – Night-time and Entertainment Economy   | Proposed forward action items noted and supported.<br>Agree to continue collaboration between BRT and EPSDD as it leads the implementation of the ACT’s first entertainment precinct in the city centre, which will result in complementary regulatory changes in a set area.<br>There may be opportunities to pilot some regulatory changes identified by the BRT in the entertainment precinct before a wider rollout across the ACT.<br>The BRT should note work already underway and proposed by EPSDD regarding the entertainment precinct, particularly planning and environment protection (noise) regulatory reviews, which are being informed by technical consultant work. Project scope should be carefully managed to avoid overlap or non-compatible outcomes. |

I think it would be worth a quick catch up in the next 7 working days so that I can prepare colleagues on where your work is up to, and I can provide an update on mine. I have good availability for the rest of this week and next Tuesday; Wednesday 16<sup>th</sup> and beyond is still doable but possibly a little frantic at my end!

Thank you and fingers crossed the cab sub is on circulation in this next week and a bit,

Kind regards,

**Rebecca Bamford**

Working remotely – I can be reached via Microsoft Teams, phone: 02 6207 8749 or email: rebecca.bamford@act.gov.au  
**Strategic Planning and Reform | Planning and Urban Policy | Environment, Planning and Sustainable Development Directorate | ACT Government**



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**From:** Clapham, David <[David.Clapham@act.gov.au](mailto:David.Clapham@act.gov.au)>

**Sent:** Monday, 28 February 2022 4:26 PM

**To:** Potter, Chantel <[Chantel.Potter@act.gov.au](mailto:Chantel.Potter@act.gov.au)>; Lhuede, Nick <[Nick.Lhuede@act.gov.au](mailto:Nick.Lhuede@act.gov.au)>; Pryce, David <[David.Pryce@act.gov.au](mailto:David.Pryce@act.gov.au)>; McKinnon, Margaret <[Margaret.McKinnon@act.gov.au](mailto:Margaret.McKinnon@act.gov.au)>; Martin, Victor (Health) <[Victor.Martin@act.gov.au](mailto:Victor.Martin@act.gov.au)>; Rynehart, Josh <[Josh.Rynehart@act.gov.au](mailto:Josh.Rynehart@act.gov.au)>; Cubin, Derise <[Derise.Cubin@act.gov.au](mailto:Derise.Cubin@act.gov.au)>; Grundy, Samantha <[Samantha.Grundy@act.gov.au](mailto:Samantha.Grundy@act.gov.au)>; Bamford, Rebecca <[Rebecca.Bamford@act.gov.au](mailto:Rebecca.Bamford@act.gov.au)>; Colussi, David <[David.Colussi@act.gov.au](mailto:David.Colussi@act.gov.au)>; Springett, Emily <[Emily.Springett@act.gov.au](mailto:Emily.Springett@act.gov.au)>; Kobus, Jonathan <[Jonathan.Kobus@act.gov.au](mailto:Jonathan.Kobus@act.gov.au)>; Stewart-Moore, Karen <[Karen.Stewart-Moore@act.gov.au](mailto:Karen.Stewart-Moore@act.gov.au)>; Kerkow, Kyla <[Kyla.Kerkow@act.gov.au](mailto:Kyla.Kerkow@act.gov.au)>; Vroombout, Sue <[Sue.Vroombout@act.gov.au](mailto:Sue.Vroombout@act.gov.au)>; McAulay, Heather <[Heather.McAulay@act.gov.au](mailto:Heather.McAulay@act.gov.au)>; Lawrence, Ian <[Ian.Lawrence@act.gov.au](mailto:Ian.Lawrence@act.gov.au)>

**Cc:** Engele, Sam <[Sam.Engele@act.gov.au](mailto:Sam.Engele@act.gov.au)>; Chesworth, Fiona <[Fiona.Chesworth@act.gov.au](mailto:Fiona.Chesworth@act.gov.au)>; Better Regulation Taskforce <[BetterRegulationTaskforce@act.gov.au](mailto:BetterRegulationTaskforce@act.gov.au)>; Wilkie, Rachel <[Rachel.Wilkie@act.gov.au](mailto:Rachel.Wilkie@act.gov.au)>

**Subject:** INPUT SOUGHT - Draft Discovery Report

## CABINET

Dear Colleagues

We will soon share with you via OneDrive a PDF of the Draft Better Regulation Taskforce Discovery Report for your review and comment.

### Sch 1 1.6

For those of you with whom we have met to discuss the ideas and responses for the proposed forward work program, thank you for your time and input. You will note that the proposed program of reform includes some specific elements and action items that we had originally proposed but were subsequently removed after our discussions with you. This change reflects feedback from Minister Cheyne and her office on the type of measures they would like to see progressed during 2022-2023.

The Report will become a public facing document. The reform measures that form a forward work program as described in the Report are pitched at quite a high level. The covering submission will include greater detail on the measures for Cabinet consideration.

We would be grateful for any views that you might have now and during exposure on the Report. More than happy to set up times to discuss and to expand on anything in the report that requires further context/clarification from us.

Many thanks

David

**David Clapham** | Executive Branch Manager

Better Regulation Taskforce | Economic and Regional Policy Branch | **Policy & Cabinet Division**

☎ 02 6205 7261 | **Chief Minister, Treasury & Economic Development Directorate** | ACT Government  
Level 5, 220 London Circuit | GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)



## Stuart, Katharine

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**From:** Chesworth, Fiona  
**Sent:** Wednesday, 16 March 2022 12:29 PM  
**To:** Clapham, David; Engele, Sam  
**Subject:** FW: Brief - BBR - Agreement to circulate Cabinet Submission Exposure Draft Discovery Phase Report and Forw  
**Attachments:** page 30 paras.png  
**Categories:** FOI

OFFICIAL

Some initial thoughts....

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**From:** Saunders, Joe <[Joe.Saunders@act.gov.au](mailto:Joe.Saunders@act.gov.au)>  
**Sent:** Wednesday, 16 March 2022 8:48 AM  
**To:** Clapham, David <[David.Clapham@act.gov.au](mailto:David.Clapham@act.gov.au)>; ACDLO <[ACDLO@act.gov.au](mailto:ACDLO@act.gov.au)>; Argy, Nicholas <[Nicholas.Argy@act.gov.au](mailto:Nicholas.Argy@act.gov.au)>; Engele, Sam <[Sam.Engele@act.gov.au](mailto:Sam.Engele@act.gov.au)>  
**Subject:** RE: Brief - BBR - Agreement to circulate Cabinet Submission Exposure Draft Discovery Phase Report and Forw

Morning David and Sam

To assist with the discussion this afternoon, below are the Minister's comments on the cabsub and report.

### Major overarching comments:

- My one major concern is that I can't see anywhere in this that answers the question: what will it look like if it works? That is, how will we know we are making a difference? How are we going to measure the impact all of this work has made? This bit is critical.

An evaluation strategy for each measure will be established including the articulation of an outcomes framework in consultation with stakeholders. If we set up outcomes frameworks now they will need to be so broad as to be potentially meaningless.

In terms of the overall agenda, we will also know we are making a difference through the implementation of two key measures in the program itself (i) the business sentiment survey – how does business feel about its interactions with government and (ii) the development of a measure of regulatory burden. We can make this aspect clearer in the 'Where to From Here' section in the Report and the submission.

- Less of a concern but not clear to me – this is no longer just a discovery phase report, but also contains the analysis and the agenda. Can we find a new way to reflect this which doesn't lose the fact that we've done several phases of work?

We have undertaken analysis to the point where we feel confident about including the items we have on the forward work agenda and to provide some shape around each measure as articulated in the measure snapshots. A suggestion here might be to re-title the report to be something like 'Better Regulation Report'.

### Current statement in the intro

This report reflects on the Discovery Phase. It presents the Taskforce's discoveries and the ACT Government's Better Regulation Agenda to make it easier to start, run and grow a business in the ACT.

**Proposed statement:**

In this report, the Taskforce presents its discoveries and an analysis of its findings to support a program of work for the next two years.

# Sch 1 1.6

Report

- Page 28 (introduction) – quite repetitive – needs a fresh look. It’s not just a Discovery Phase report as the last sentence suggests. Several places reflecting what the taskforce and report are designed to do. Think it can be shortened considerably. **OK**
- Page 29 – ‘the success rate of such agendas has been poor’ – this needs referencing or it should be deleted **do have a reference for this from the paper included in the conference papers we attended and could also pull something from the Productivity Commission but do not want to die in a ditch over this so happy to delete.**
- Page 30 – the final three paragraphs are not ordered in the most sensible way – picture attached refers **OK**
- Page 30 – section regarding the Event and Business Coordination Team should be a bit clearer. The section is telling a positive AC story but could do with a fresh look - **OK**
- Page 31 – suggest this be titled “FINDINGS – STREAM 1 – POLICY AND LEGISLATIVE FRAMEWORKS” to aid consistency of what we are talking about - **OK**
- Page 35 – subheadings change from the previous ‘Jurisdictional Analysis’ to ‘Jurisdictional Scan’ – needs to be consistent (and suggest ‘Analysis’ is better) - **OK**
- Page 38 – suggest this be titled “FINDINGS – STREAM 2 – BUSINESS EXPERIENCE AND REGULATOR PERFORMANCE” as above (also we do mean performance or engagement?) – **The Commonwealth describes their measure as “Regulator Performance.” This includes best practice principles which go to:**

1. **Continuous improvement and building trust:** regulators adopt a whole-of-system perspective, continuously improving their performance, capability and culture to build trust and confidence in Australia’s regulatory settings.
2. **Risk based and data driven:** regulators manage risks proportionately and maintain essential safeguards while minimising regulatory burden, and leveraging data and digital technology to support those they regulate to comply and grow.
3. **Collaboration and engagement:** regulators are transparent and responsive communicators, implementing regulations in a modern and collaborative way.

**So maybe we can call it ‘Business Experience and Regulator Practice’? because that seems to cover all the things we are talking about**

- Page 38 and beforehand – it is getting late so this might not make sense but – “tell us once” is described in ‘Stream 1’ but then referenced in “Stream 2”(which refers to the analysis about it being in the preceding pages) and then is in the agenda under “Stream 2”. Should all just be in Stream 2. **I have moved this one about so many times and it shows the difficulty of the two stream approach which is after all only one lens that can be applied and is not a ‘statement of truth’. Most of these topics ‘bleed across the streams.’ There are policy, legislative and regulator practice reasons that lead to overlap and duplication so really its sits in between both. It was identified as part of the leg review as leg review project. Happy to move it wherever. We do note “Business perceptions about overlap could also equally be discussed as part of the findings for ‘Business Experience and Regulator Performance’ outlined below. They have been summarised here to avoid repetition.” But as it is in agenda under stream 2 I am happy to move it there.**
- Night time economy work /text could probably link in reference to Statement of Ambition for the Arts + the CM’s ambition being released tomorrow. **Can we get something from the relevant areas to insert?**
- A bit more detail or a single example would be beneficial in the alignment with other jurisdiction sections of procurement and night-time economy (outside of the appendices) - **OK**

#### Appendices

- Page 113 – the language throughout this and the next page is concerning – while it reflects what we were told it can still have a look at tone like other parts of the report have had. – **OK – this is not for public release btw – it is a measure snapshot**

# Sch 1 1.6

**From:** Saunders, Joe

**Sent:** Tuesday, 15 March 2022 11:45 AM

**To:** Clapham, David <[David.Clapham@act.gov.au](mailto:David.Clapham@act.gov.au)>; ACDLO <[ACDLO@act.gov.au](mailto:ACDLO@act.gov.au)>; Argy, Nicholas <[Nicholas.Argy@act.gov.au](mailto:Nicholas.Argy@act.gov.au)>

**Subject:** Brief - BBR - Agreement to circulate Cabinet Submission Exposure Draft Discovery Phase Report and Forw

Thanks Morgan

David, Morgan, fyi I’ve secured agreement from CMO for this to be lodged on Thursday for exposure circulation (rather than Wednesday).

Joe

**From:** Potter, Morgan <[Morgan.Potter@act.gov.au](mailto:Morgan.Potter@act.gov.au)> **On Behalf Of** ACDLO

**Sent:** Friday, 11 March 2022 8:21 PM

**To:** Argy, Nicholas <[Nicholas.Argy@act.gov.au](mailto:Nicholas.Argy@act.gov.au)>; Saunders, Joe <[Joe.Saunders@act.gov.au](mailto:Joe.Saunders@act.gov.au)>

**Subject:** SIGNING - 20220311 - Brief - BBR - Agreement to circulate Cabinet Submission Exposure Draft Discovery Phase Report and Forw

**Importance:** High

**OFFICIAL**

Good Evening,

I have placed the cabinet brief and attachment including discovery report [here](#).

**Morgan Potter** | Directorate Liaison Officer | Access Canberra

Phone: Sch 2.2(a)(ii) | Email: [acdlo@act.gov.au](mailto:acdlo@act.gov.au)

**Chief Minister Treasury and Economic Development Directorate** | ACT Government

GPO Box 158, Canberra ACT 2601 | [www.accesscanberra.act.gov.au](http://www.accesscanberra.act.gov.au)


Minister for Business and Better Regulation

Minister for Consumer Affairs

Minister for Planning and Land Management

During the Discovery Phase, the Taskforce collaborated directly with businesses to provide the opportunity to contribute ideas and solutions that would best support their success. These ideas build on the already embedded 'how can we help?' approach of government agencies and regulators, with the view of improving the experience for everyone. A catalogue of what we heard from business is at [Appendix C](#).

The Taskforce also commissioned a wide-ranging Legislative Review to identify potential projects for reform. The potential projects developed through the Legislative Review have been considered alongside the other inputs into the Discovery Phase and have informed the Better Regulation Agenda. A summary of the findings of the Legislative Review is provided at [Appendix D](#).

Finally, the Taskforce has considered regulatory reform approaches elsewhere in Australia and abroad. Key understandings from a jurisdictional analysis to inform a regulatory quality framework are provided at [Appendix E](#), *in addition to* 

*findings*  
~~The issues raised by business with the Taskforce during the Discovery Phase can be broadly categorised as issues covering:~~

- existing policy and legislative frameworks; and
- the business experience when interacting with government, including regulator capability and support.

~~For each emerging issue, we have summarised the perspectives and ideas we heard from business. We have also linked to relevant projects identified through the Legislative Review and noted relevant learnings from other jurisdictions, including the Commonwealth Deregulation Agenda ([Appendix F](#)) and regulatory quality framework fundamentals ([Appendix G](#)).~~

*next page, opening para.*

## Stuart, Katharine

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**From:** Perkins, Anita  
**Sent:** Tuesday, 15 February 2022 8:46 AM  
**To:** Engele, Sam; Priest, Jenny  
**Cc:** Clapham, David; Chesworth, Fiona; Better Regulation Taskforce  
**Subject:** FW: FOR COMMENT: Better Regulation Taskforce - Work program  
**Attachments:** Attachment A - BRT Suggested Work Program for 2022.docx; Attachment B - Supporting Analysis for Reform Packages.docx

**Categories:** FOI

### CABINET

Hi Sam

Thanks for including me on this email. The work looks really interesting, and while I'd like to be involved, I've moved over to CSD to work on the One CSD Reforms with Catherine Rule. I've copied in Jenny Priest who is now heading up the Business Support Grants – we've had lots of discussions about the learnings and legacy of the Business Support Grants, so this combined with Jenny's nominal role in Business and Innovation will provide great input for you.

Cheers

Anita

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**From:** Engele, Sam <Sam.Engele@act.gov.au>  
**Sent:** Monday, 14 February 2022 6:42 PM  
**To:** Pryce, David <David.Pryce@act.gov.au>; Konti, Bettina <Bettina.Konti@act.gov.au>; Snow, Malcolm <Malcolm.Snow@act.gov.au>; Walker, IanS <IanS.Walker@act.gov.au>; O'Neill, Carolyn <Carolyn.O'Neill@act.gov.au>; Bowdery, John <John.Bowdery@act.gov.au>; Ng, Daniel <Daniel.Ng@act.gov.au>; Arthy, Kareena <Kareena.Arthy@act.gov.au>; Kobus, Jonathan <Jonathan.Kobus@act.gov.au>; Miners, Stephen <Stephen.Miners@act.gov.au>; Hocking, Stuart <Stuart.Hocking@act.gov.au>; Salisbury, Kim <Kim.Salisbury@act.gov.au>; Smyth, Brendan <Brendan.Smyth@act.gov.au>; Perkins, Anita <Anita.Perkins@act.gov.au>; West, Damian <Damian.West@act.gov.au>; Snow, Malcolm <Malcolm.Snow@act.gov.au>; Holmes, Lisa <Lisa.Holmes@act.gov.au>; Croke, Leesa <Leesa.Croke@act.gov.au>  
**Cc:** Clapham, David <David.Clapham@act.gov.au>; Chesworth, Fiona <Fiona.Chesworth@act.gov.au>; Better Regulation Taskforce <BetterRegulationTaskforce@act.gov.au>  
**Subject:** FOR COMMENT: Better Regulation Taskforce - Work program

Colleagues

The Better Regulation Taskforce is authoring its report on the Discovery Phase. It will include a forward work program and I wanted to send to you our early thinking on this.

Taking into account what we have heard from our engagements, a jurisdictional analysis and the results of Phase 1 of the Legislation Review, we have collated a comprehensive list of possible reform measures which could be taken forward. As you might expect, the measures range from small 'quick fixes' to some very large sectoral wide initiatives and everything in between.

Where we have been able to identify a unifying idea or theme, we have brought a number of the measures together into reform packages.

- There are six potential reform packages and these are identified in Table A of [Attachment B - Supporting Analysis for Reform Packages](#).



- Tables B and C in [Attachment B](#) then list every single measure we have identified and categorised them as either less complex or more complex respectively. We also note where these single measures could be part of a reform package.

This approach opens the possibility of building a forward work program by selecting one reform package (say, for example, entertainment and night time economy) along with a number of stand-alone measures.

- We have modelled such an approach in [Attachment A](#) - Suggested Work Program for 2022 and Discovery Report Timeline.

I ask that you do not share these further outside of key personnel in your agency as we are yet to discuss these with Ministers. The matters will also be subject to Cabinet approval.

We are keen to hear your first impressions and thoughts. We hope to make the draft Discovery Phase report available soon.

If there are any questions or comments, including a fuller description of any of the measures, please reach out to me or [@Clapham, David](#) or any of the team via [@Better Regulation Taskforce](#)

Regards,

**SAM ENGELE**

Coordinator-General for Climate Action  
& Head of the Better Regulation Taskforce

Phone 02 6205 0230 | Mobile [Sch 2.2\(a\)\(ii\)](#)

Email [Sam.Engele@ACT.gov.au](mailto:Sam.Engele@ACT.gov.au)

Policy and Cabinet  
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**CABINET- DLM**

BRT Suggested Work Program for 2022

| Measure   | Complexity   | Theme  | BRT involvement                  | Other directorates and agencies                   | Timeframe   |
|---|--------------|--|----------------------------------|---|-------------|
| Business Sentiment Survey   | Less complex | Regulator Practice Continuous Improvement  | Lead                             | CMTEDD: Access Canberra, and Economic Development | < 12 months |
| Compliance checklist / factsheets for business                      | Less complex | Regulator Practice   | Lead                             | CMTEDD: Access Canberra, and policy owners        | < 12 months |
| Review of Local Industry Participation Policy                       | Less complex | Programs and Support for SMEs – Procurement                                      | Assist<br>*Specialist Capability | CMTEDD: Economic Development, PACT                | < 12 months |
| Model Rules for Incorporated Associations                           | Less complex | Continuous Improvement   | Lead                             | CMTEDD: Access Canberra JACS – LPP                | <12 months  |
| Employment Agent Licensing *  | More complex | Continuous Improvement   | Lead                             | CMTEDD: Access Canberra JACS – LPP                | < 12 months |
| Removal of reference to cheques in ACT laws*                        | More complex | Continuous Improvement<br><br>Simplification of Business-Government Interactions | Lead                             | Multiple  | < 12 months |
| Modernising Document Execution (Deeds and Statutory Declarations) * | More complex | Simplification of Business-Government Interactions                               | Lead                             | Multiple  | <12 months  |

\*current commitment

**CABINET- DLM**

| <b>Measure</b>  | <b>Complexity</b> | <b>Theme</b>  | <b>BRT involvement</b> | <b>Other directorates and agencies</b>  | <b>Timeframe</b> |
|---|-------------------|---|------------------------|---|------------------|
| Improving Labour Mobility – AMR *   | More complex      | Skilled workforce   | Lead                   | Multiple  | Ongoing          |
| Entertainment Economy & Night-time Economy                                | Reform Package    | Regulator Practice<br><br>Simplification of business government interactions.<br><br>Continuous Improvement | Lead                   | CMTEDD: Economic Development, Access Canberra, Environment Protection Authority, Treasury, EPSDD, JACS, Health, TCCS, CSD | >12 Months       |
| Continued learning and application of best practice regulation principles | Reform Package    | Continuous Improvement  | Learn                  | WhOG  | Ongoing          |

Supporting Analysis for Reform

Table A – Possible Reform Packages

- These packages are multifaceted, high impact, engage a significant number of stakeholders, resource intensive and will require further cabinet processes through development and implementation.
- The reform packages parcel various measures from Table B and Table C which have a common reform idea or theme.

| Reform Package   | Theme(s)  | Other Ministers   | Stakeholder support                       | Best Practice Principle/s | Outcomes alignment | Leg Review |
|--|---|---|---|---------------------------|--------------------|------------|
| <b>Entertainment Economy</b> <ul style="list-style-type: none"> <li>• Liquor Act review</li> <li>• Environment Protection Regulatory Framework review</li> <li>• Mapping of approvals, licences, processes</li> <li>• Events approvals</li> <li>• Lease purpose clauses</li> <li>• Overlap/duplication with Cth</li> <li>• Security agents licensing framework</li> <li>• Review of RSA &amp; RTO training requirements</li> </ul> | Continuous Improvement<br><br>Simplification of Business-Government Interactions<br><br>Regulator Practice<br><br>Small business information and communications | The most relevant are:<br><br>Chief Minister<br><br>Minister for Economic Development<br><br>Minister for Tourism<br><br>Minister for Planning and Land Management<br><br>Minister for the Environment<br><br>Attorney-General<br><br>Minister for Transport and City Services<br><br>Minister for Sustainable Building and Construction<br><br>Minister for Gaming | Wide support but a highly contested space | 3,6,7,8                   | 1,3,4a             | Project #1 |
| <b>Modernising business communications:</b> <ul style="list-style-type: none"> <li>• References to cheques</li> <li>• Review for tech neutrality</li> <li>• Modernising document execution</li> </ul>  | Continuous Improvement<br><br>Simplification of Business-Government Interactions  | Attorney-General<br><br>Treasurer<br><br>Plus relevant portfolio ministers  | Unknown                                   | 3,5,6,7,8                 | 1,3,4b             | Project #3 |

**CABINET - DLM**

| Reform Package  | Theme(s)   | Other Ministers   | Stakeholder support                                    | <a href="#">Best Practice Principle/s</a> | <a href="#">Outcomes alignment</a> | <a href="#">Leg Review</a>   |
|---|--|---|--|---|------------------------------------|------------------------------|
| <b>Best Practice Procurement Framework</b> <ul style="list-style-type: none"> <li>Review of legislation</li> <li>Review of policies</li> <li>Measurement and evaluation</li> </ul>  | Programs and Support for SMES – Procurement  | Special Minister of State<br><br>Treasurer  | Wide Support   | 3,6,7                                     | 3,5                                | Project #2                   |
| <b>Improving regulator capability and performance</b> <ul style="list-style-type: none"> <li>Introduce obligation to actively manage regulation and to produce factsheets</li> <li>Business helpdesk/concierge</li> <li>Regulatory powers legislation</li> </ul>  | Small business information and communications<br>Regulator Practice<br><br>Simplification of Government to Business interactions<br><br>Continuous Improvement | Regulatory powers legislations would impact on a number of ministerial portfolios | Wide Support   | 3,6,7,8                                   | 3                                  | Project #6                   |
| <b>Implementing Best Practice Regulation</b> <ul style="list-style-type: none"> <li>Best Practice Principles and toolkit</li> <li>Business survey</li> <li>Measure of burden</li> <li>Stock and flow management</li> <li>Evaluation</li> <li>Human centred design</li> <li>Keeping pace with tech advancements</li> </ul> | Continuous improvement<br><br>Small business information and communications<br><br>Regulator Practice  | All ministers   | Supported  | 3,4,5,6,7,8                               | 3,4a                               | Project #6<br><br>Project #5 |
| <b>Industry specific reviews:</b> <ul style="list-style-type: none"> <li>Motor vehicle repairers</li> <li>Employment agents</li> <li>ODTI</li> <li>Incorporated Associations</li> </ul>   | Skilled Workforce  | Treasurer<br><br>Minister for Consumer Affairs<br><br>Attorney- General           | Strong support for some measures<br>Unknown for others | Various                                   | 2,3                                | N/A                          |

## CABINET - DLM

Table B - Less complex measures

- Can be delivered in 2022 Estimated timeframe for delivery 3-6 months for each measure
- No further Cabinet approval required for these measures
- These measures can be pursued as stand-alone reforms or they could form part of a suite of measures for a reform package

| Measure  | Theme  | Other Ministers  | Stakeholder support | Best Practice Principle/s | Outcomes alignment | Leg Review | Reform Package                                 |
|--|--|--|---------------------|---------------------------|--------------------|------------|--|
| Business Sentiment Survey  | Regulator Practice<br>Continuous Improvement | All  | Supported by CBC    | 3, 6                      | 3, 4 a and b.      | Project #5 | Implementing best practice regulation          |
| Compliance checklist / factsheets for business   | Regulator Practice                           | Nil  | Wide support        | 5,6,7                     | 1, 3,4a.           | N/A        | Improving regulator capability and performance |
| Who does What in Access Canberra info-graphic  | Regulator Practice                           | Nil  | Supported           | 4,6,7                     | 3,4a               | N/A        | Improving regulator capability and performance |
| Review of Local Industry Participation Policy  | Programs and Support for SMES – Procurement  | Special Minister of State<br>Minister for Economic Development | Wide support        | 2,3,8                     | 3,5                | Project #2 | Best Practice Procurement Framework            |
| Review of RSA & RTO training requirements  | Continuous Improvement                       | Attorney-General   | Unknown             | 7,8                       | 3                  | Project #1 | Entertainment Economy                          |
| Review and reform process for notifying government entities of changes in club committees. | Regulator Practice<br>Continuous Improvement | Attorney-General   | Unknown             | 7,8                       | 3, 4a              | Project #1 |  |
| Model Rules for Incorporated Associations  |  |  |                     |                           |                    | N/A        | Industry specific reviews                      |

**CABINET - DLM**

**Table C - More complex measures**

- Can be delivered over 2022-2023. Timeframe for delivery generally exceeds 6 months due to complexity
- Cabinet approval may be required for some of these measures
- These measures can be pursued as stand-alone reforms or they can form part of a suite of measures for a reform package

| Measure  | Theme  | Further Cabinet Approval | Other Ministers  | Stakeholder support | Best Practice Principle/s | Outcomes alignment | Leg Review | Reform Package        |
|--|--|--------------------------|--|---------------------|---------------------------|--------------------|------------|-----------------------|
| Entertainment Economy Industry analysis - mapping approvals, licensing and reporting requirements    | Simplification of Business-Government Interactions   | Sch 1 18                 | Multitple  | Wide Support        | 3,6,7,8                   | 3,4a,5             | Project #1 | Entertainment Economy |
| Review of the Liquor Act (and liquor licensing fees)   | Continuous Improvement<br><br>Simplification of Business-Government Interactions<br><br>Regulator Practice |                          | Multiple   | Wide Support        | 3,6,7,8                   | 3,4a,5             | Project #1 | Entertainment Economy |
| Review of the Environment Protection Regulatory Framework as it relates to regulation of noise/sound | Continuous Improvement<br><br>Simplification of Business-Government Interactions<br><br>Regulator Practice |                          | Minister for Planning and Land Management,<br><br>Minister for the Environment | Supported           | 3,7                       | 3,4a               | Project #1 | Entertainment Economy |
| Review of Lease Purpose Clauses and the planning process/costs associated with varying a LPC         | Continuous Improvement   |                          | Minister for Gaming, Minister for Planning and Land Management                 | Supported           | 3,6,7                     | 5                  | Project #1 | Entertainment Economy |
| Reviewing requirements and process for application and renewal of security agent's licence           | Simplification of Business-Government Interactions   |                          | Minister for Consumer Affairs  | Supported           | 3,6,7                     | 1,3,4a             | Project #1 | Entertainment Economy |

**CABINET - DLM**

| Measure   | Theme  | Further Cabinet Approval | Other Ministers                            | Stakeholder support           | Best Practice Principle/s | Outcomes alignment | Leg Review | Reform Package                      |
|---|--|--------------------------|--|-------------------------------|---------------------------|--------------------|------------|-------------------------------------|
| Review the events approval process including legal, regulatory requirements, fees levied by ACT Government. | Continuous Improvement<br><br>Simplification of Business-Government Interactions<br><br>Regulator Practice | Sch 1 1,8                | Minister for Planning and Land Management, | Wide Support                  | 3,6,7,8                   | 1,3,4a,5           | Project #1 | Entertainment Economy               |
| Review interactions with Commonwealth NCA requirements for events and tourism on National Land              | Simplification of Business-Government Interactions   |                          | Minister for Planning and Land Management  | Supported                     | 3,5,6,7,8                 | 4a                 | Project #1 | Entertainment Economy               |
| Removal of reference to cheques   | Continuous Improvement<br><br>Simplification of Business-Government Interactions                           |                          | Attorney-General<br><br>Treasurer          | Unknown – supported by AusPay | 6,7,8                     | 1,3                | Project #3 | Modernising Business Communications |
| Review of ACT statute book to ensure technology neutral legislation   | Continuous Improvement<br><br>Simplification of Business-Government Interactions                           |                          | All ministers                              | Unknown                       | 5                         | 4b                 | Project #3 | Modernising Business Communications |
| Modernising Document Execution (Stat decs and deeds)  | Continuous Improvement<br><br>Simplification of Business-Government Interactions                           |                          | Attorney-General                           | Unknown                       | 5                         | 4b                 | Project #3 | Modernising Business Communications |



**CABINET - DLM**

| Measure  | Theme   | Further Cabinet Approval | Other Ministers           | Stakeholder support | Best Practice Principle/s | Outcomes alignment | Leg Review | Reform Package                                 |
|--|---|--------------------------|---------------------------|---------------------|---------------------------|--------------------|------------|--|
| Review of Procurement Legislation  | Programs and Support for SMES – Procurement<br><br>Continuous Improvement | Sch 1 1.6                | Special Minister of State | Wide Support        | 3,6,7                     | 3                  | Project #2 | Best Practice Procurement Framework            |
| Review of Procurement Policies and settings.   | Programs and Support for SMES – Procurement<br><br>Continuous Improvement |                          | Special Minister of State | Wide Support        | 3,6,7                     | 3                  | Project #2 | Best Practice Procurement Framework            |
| Procurement Measurement and Evaluation .   | Programs and Support for SMES – Procurement<br><br>Continuous Improvement |                          | Special Minister of State | Supported           | 3,6,7                     | 3                  | Project #2 | Best Practice Procurement Framework            |
| Statutory process for assessing performance of regulators                                    | Regulator Practice  |                          | Multiple                  | Unknown             | 4,5,8                     | 3, 4a              | Project #6 | Improving regulator capability and performance |
| Impose an obligation on regulators to actively manage the regulatory framework (stewardship) | Regulator Practice  |                          | Multiple                  | Unknown             | 4,5                       | 3, 4a              | Project #6 | Improving regulator capability and performance |
| Impose an obligation on regulators to issue factsheets and guidelines                        | Regulator Practice  |                          | Multiple                  | Wide Support        | 6,7,8                     | 3,4a               | Project #6 | Improving regulator capability and performance |
| Introduction of a standard suite of regulatory powers  | Regulator Practice  |                          | Multiple                  | Unknown             | 4,5,6,7,8                 | 3, 4a              | Project #6 | Improving regulator capability and performance |

**CABINET - DLM**

| Measure   | Theme  | Further Cabinet Approval | Other Ministers                                    | Stakeholder support                      | Best Practice Principle/s | Outcomes alignment | Leg Review               | Reform Package                                 |
|---|--|--------------------------|--|--|---------------------------|--------------------|--------------------------|--|
| Business Helpdesk Function (concierge service and/or case manager approach)     | Small business information and communications<br><br>Simplification of Government to Business interactions | Sch 1 T.6                | All Ministers                                      | Wide Support                             | 3,6,7                     | 1,3                | Project #6               | Improving regulator capability and performance |
| Review of Employment Agent Licensing  | Continuous Improvement   |                          | Minister for Consumer Affairs                      | Unknown                                  | 3,8                       | 3                  | Project #4<br>Project #5 | Industry specific reviews                      |
| Motor Vehicle Repairers – licensing for individuals                             | Continuous improvement   |                          | Minister for Consumer Affairs                      | Unknown                                  | 3,8                       | 3                  | Project #4               | Industry specific reviews                      |
| On Demand Transport Industry – deregulation                                     | Continuous improvement   |                          | Minister for Transport and City Services           | Opposition likely from some stakeholders | 3,8                       | 3                  | N/A                      | Industry specific reviews                      |
| Construction Industry - Security of Payment for Building and Construction       | Continuous improvement   |                          | Minister for Sustainable Building and Construction | Unknown                                  | 3,8                       | 3                  | Project #4               | Industry specific reviews                      |
| Development of Best Practice Principles (and toolkit to achieve these outcomes) | Regulator Practice<br><br>Continuous improvement   |                          | All Ministers                                      | Unknown                                  | 2,6,7                     | All                | Project #6               | Implementing Best Practice Regulation          |
| Business Sentiment Survey (annual, bi annual basis)                             | Small business information and communications<br><br>Regulator practice                                    |                          | All Ministers                                      | Supported by CBC                         | 3,6,7,8                   | All                | Project #6               | Implementing Best Practice Regulation          |
| Baseline and measure existing regulatory burden on business                     | Small business information and communications<br>Regulator practice<br><br>Continuous improvement          |                          | All Ministers                                      | Supported                                | 3,6,7,8                   | All                | Project #6               | Implementing Best Practice Regulation          |

### CABINET - DLM

| Measure  | Theme   | Further Cabinet Approval | Other Ministers | Stakeholder support | Best Practice Principle/s | Outcomes alignment | Leg Review | Reform Package                        |
|--|---|--------------------------|-----------------|---------------------|---------------------------|--------------------|------------|---------------------------------------|
| Adopting the NZ approach to managing the stock and flow of regulation  | Regulator practice  | Sch 1 1.6                | All Ministers   | Unknown             |                           | All                | N/A        | Implementing Best Practice Regulation |
| Adopt human centred design approach to development of regulation.  | Regulator practice  |                          | All Ministers   | Supported           | 6,7,8                     | All                | N/A        | Implementing Best Practice Regulation |
| Evaluation of new regulation in line with best practice principles.  | Regulator practice  |                          | All Ministers   | Unknown             | 1,2,4,5,8                 | All                | N/A        | Implementing Best Practice Regulation |
| Having a leading practice where we stay ahead of technological advancements.   | Regulator practice  |                          | All Ministers   | Supported - CBRIN   | 1,2,4,5,8                 | All                | N/A        | Implementing Best Practice Regulation |
| Implement Automatic Mutual Recognition of occupational licences.   | Skilled workforce   |                          | Chief Minister  | Supported           | 3,6,7                     | 2                  | Project #4 |                                       |
| Review of ACT / NSW cross border alignment in legislation and associated regulatory practice. <sup>1</sup>                       | Simplification of Government to Business interactions<br><br>Continuous Improvement |                          | Multiple        | Wide Support        | 3,6,7,8                   | 3,4a               | Project #4 |                                       |
| Review of regulation overlap and duplication of government to business interactions. <i>Tell Us Once Principle.</i> <sup>2</sup> | Simplification of Government to Business interactions                               |                          | Multiple        | Wide Support        | 3,6,7,8                   | 1,3,4a             | Project #5 |                                       |
| High costs of insurance in Canberra - impost on business   | Continuous Improvement  |                          | Multiple        | Supported           | 3,8                       | 5                  | N/A        |                                       |

<sup>1</sup> The complexity of this measure depends on the range of legislation under review.

<sup>2</sup> The complexity of this measure depends on the range of regulation under review.

## Draft Best Practice Principles

The draft principles for making ACT regulation better are:

- 1) Commitment:
  - a. Government should commit to making better regulation.
- 2) Articulate the 'why':
  - a. Regulation should only be introduced and retained where there is a clear need for government intervention – a clear problem to be addressed or a clear outcome the government is trying to achieve.
  - b. Regulation should be principle-based and clearly articulate the underlying objectives.
- 3) Assess the impact:
  - a. As a fundamental part of the policy development for legislation and regulation, an assessment of the impact of regulation (including its impact on wellbeing), within the context of existing regulatory burden, should be undertaken.
  - b. This impact should be considered as a part of the government decision making process, including a consideration of a range of feasible policy options – including non-regulatory approaches.
  - c. The assessment should include an assessment of risk and a consideration of risk appetite and tolerance.
- 4) Be accountable:
  - a. Decisions and supporting evidence for regulation should be publicly available.
  - b. Regulator discretion should be supported by transparency and accountability measures.
- 5) Make room for leading practices:
  - a. Regulation should allow regulators and regulated entities to innovate.
  - b. Regulation should be tech-neutrality and allow for experimentation by business and regulators.
  - c. Regulators should have access to a range of compliance and enforcement tools.
- 6) Put people at the centre:
  - a. At all stages of the policy development and regulatory cycle, regular and effective consultation with stakeholders, especially regulated entities, should occur.
  - b. Human-centred design principles can be valuable to ensure regulatory systems are effective and efficient – especially to better understand overlapping, duplicated or cumulative burden.
- 7) Easy to comply:
  - a. Regulation should be in plain language.
  - b. Government systems should support seamless interactions for business.
  - c. Human support should be available for those businesses who need it.
- 8) Remain effective:
  - a. Existing regulation should be monitored and evaluated periodically to simplify, reform, modernise or consolidate.
  - b. Regulators should regularly assess their delivery approaches and impact on business.

**Taskforce Outcomes** *(as outlined in Jobs and Economic Recovery Plan and Taskforce Factsheet)*

- 1) Expanding digital service offerings of the ACT Government's public interactions and support Canberra businesses to transition to greater digital technology operations.
- 2) Improving labour mobility through automatic recognition of licences from other parts of Australia.
- 3) Identifying areas of regulatory burden through stakeholder engagement with ACT industry representative groups and businesses.
- 4) Reviewing key legislation to:
  - a. Reduce the need for businesses to contact multiple Government agencies; and
  - b. Ensure legislation across the ACT supports new business models to grow the digital economy
- 5) Removing barriers to investment in the Territory.

DRAFT

## Legislative Review Projects

| Project Number | Project Title                             | Summary of Project   | Estimate timeframe*  |
|----------------|---|--|--|
| 1              | Regulation of the 'entertainment economy' | <p><b>Review full legislative and regulatory arrangements for 'entertainment economy'.</b></p> <p>This review will consider the scope for a fundamental re-organisation of regulatory arrangements affecting the 'entertainment economy'. This area of the ACT economy straddles the ABS industry sectors:</p> <ul style="list-style-type: none"> <li>- Accommodation and food services</li> <li>- Arts and recreation services</li> </ul> <p>The review will examine legislation and regulatory practice in areas including land use, food and beverage regulation and noise control. It may consider appropriate alternatives to arrangements currently requiring prior approval.</p> <p>This project will involve extensive stakeholder consultation to identify and assess the range of issues associated with these activities.</p> | <p><b>12 months</b></p> <p>This project is expected to raise a large number of issues, requiring at least two rounds of stakeholder consultation.</p>  |
| 2              | ACT Government procurement processes      | <p><b>Standardise procurement processes across ACT Government</b></p> <p>This review will examine the scope for legislation to provide for the following specific measures:</p> <ul style="list-style-type: none"> <li>- Appropriate risk assessment and management practices and standards (including insurance requirements for contractors)</li> <li>- Obligations to provide information/feedback concerning tenders</li> <li>- Preference for local content in procurement decisions.</li> </ul> <p>The ability to impose local preference policies might be found to be limited by law or by arrangements to which the ACT is a party. Advice will be obtained on these limits before any public review is commenced.</p>  | <p><b>4-8 months</b></p> <p>Some potential for delays in review of risk assessment practices across Territory entities.</p> <p>Likelihood that local preference issue will extend time to complete review due to need for wider consultation on policy issues.</p> |

## CABINET - DLM

|   |  |  |  |
|---|--|--|--|
| <p style="text-align: center;"><b>3</b></p> | <p style="text-align: center;"><b>Technology-specific legislation</b></p>  | <p><b>General review of legislation to remove any obligations requiring use of a particular technology</b></p> <p>This project will review legislation and regulatory practices which require, or presume, communications by means of a particular technology, such as a paper-based notice or a meeting requiring personal attendance. This includes arrangements currently suspended because of the COVID-19 emergency.</p> <p>The objective is to enable full use of modern digital technology appropriate to the circumstances.</p> <p>The review will also consider whether a particular requirement can be removed or modified, weighing the burdens it imposes against its intended public policy objectives.</p>   | <p style="text-align: center;"><b>6 months</b></p> <p style="text-align: center;">Assumes no significant policy issues</p>   |
| <p style="text-align: center;"><b>4</b></p> | <p style="text-align: center;"><b>Scope for cross-border alignment</b></p> | <p><b>Review of ACT-NSW regulation cross border alignment</b></p> <p>A general review of ACT-NSW legislation and regulation to maximise cross-border alignment with NSW.</p> <p>Special focus on consistency of definitions, licensing and reporting requirements.</p> <ul style="list-style-type: none"> <li>- Review of business licensing generally and whether further opportunities for harmonisation/interstate recognition</li> <li>- Scope to be considered with reference to progress on mutual recognition arrangements in ACT.</li> </ul> <p>This will require a detailed examination of legislation and regulatory practice across both jurisdictions. This would require consideration of a wide range of policy questions where divergencies are identified.</p> <p>For a cost-effective review, this project would focus on legislation and related</p> | <p style="text-align: center;"><b>9-12 months</b></p> <p style="text-align: center;">Some potential for comparison with NSW law to raise significant policy questions, requiring wider consultation.</p> |

**CABINET - DLM**

|   |                    |  |  |
|---|--------------------|--|--|
|   |                    | <p>regulatory practice likely to have a particular impact on small business.</p> <p>The starting point for the review would be the legislation identified at Appendix 3 of the Legislative Review Report. This lists the primary legislation, but also includes subordinate legislation and other instruments made under those Acts.</p> <p>The review should also examine how this legislation is administered, as there may be divergencies in regulatory practice that do not arise out of the text of the legislation.</p>   |  |
| 5 | Regulatory overlap | <p><b>Review of regulator/regulation overlap and duplication</b></p> <p>This project would review regulator/regulation overlap and duplication to simplify business to government interactions:</p> <ul style="list-style-type: none"> <li>- Reduce 'touchpoints'</li> <li>- 'tell us once'.</li> </ul> <p>Regulatory overlaps may results either from requirements arising under legislation or by reason of regulatory practice (routine requests for information, standard forms etc).</p> <p>This review will be targeted initially at least to:</p> <ul style="list-style-type: none"> <li>- The legislation with small business impacts identified at Appendix 3 of the Legislative Review Report.</li> <li>- Any other reviews relating to licensing duplication currently in progress or under consideration by ACT directorates and agencies (including in particular any identified in the 2018 audit but not yet addressed).</li> </ul> <p>The review would undertake further consultation with business to identify any other areas where regulatory overlap may exist and where its removal will have practical benefits for business.</p> <p>The review could also consider, in appropriate cases, whether a system of</p> | <p><b>6-9 months</b></p> <p>Less likely to raise significant policy questions than project 1 or project 4.</p> |



**CABINET - DLM**

|          |                              |   |   |
|----------|------------------------------|---|---|
|          |                              | 'class' or 'negative' licensing may be adopted in preference to an existing regime requiring prior approval of a particular kind of activity.   |   |
| <b>6</b> | <b>Regulator Performance</b> | <p><b>Legislation to improve regulator performance in general</b></p> <p>Review options for legislation to support regulator best practice containing the following features:</p> <ul style="list-style-type: none"> <li>- Statutory process for assessing performance of regulators</li> <li>- Obligations on regulators to actively manage regulatory framework and advise on where it continues to be fit for purpose: 'Stewardship'</li> <li>- Obligations on regulators to issue fact sheets, guidelines etc, regarding how they will apply legislation</li> <li>- Introduction of a standard suite of regulatory powers, which may be adopted as a template, with such modifications as are required, in legislation dealing with new regulatory arrangements.</li> </ul> | <p><b>3-5 months</b></p> <p>Limited scope for significant policy issues to arise.</p> |

\*Estimated timeframes as set out in the Legislative Review Report.

**Notes:**

- For each project an approximate timeframe for completion of the review is provided.
- These estimates are based on the steps for the implementation of that project as identified in Appendix 1 of the Legislative Review Report.
- Timeframes may be extended due to additional requirements: e.g., interim decision points for Government, further consultation with external stakeholders, etc.
- The estimated duration for each project does not cover subsequent action to implement its recommendations: e.g., Government decisions, drafting of legislation, further review by Legislative Assembly Committee, systems changes required by regulatory authorities, etc.
- The main cause of differing timeframes is the extent of consultation with external stakeholders likely to be required.

## Stuart, Katharine

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**From:** Engele, Sam  
**Sent:** Wednesday, 3 November 2021 9:24 AM  
**To:** Arthy, Kareena; Pryce, David  
**Subject:** FYI - Cheyne meeting notes  
**Attachments:** Agenda and Papers - Cheyne Briefing - BRT - 2 Nov 2021.pdf

OFFICIAL: Sensitive

Kareena, David,

As promised last meeting, see attached the BRT one pager that outlines the items that were discussed with the Minister yesterday.

Chat at 9:30.

### SAM ENGELE

Coordinator-General for Climate Action  
& Head of the Better Regulation Taskforce

Phone 02 6205 0230 | Mobile Sch 2.2(a)(ii)  
Email [Sam.Engele@ACT.gov.au](mailto:Sam.Engele@ACT.gov.au)

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Chief Minister, Treasury and Economic Development Directorate  
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GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)



**Minister Cheyne: Briefing with Better Regulation Taskforce**

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**Date:** 2 Nov 2021

**Time:** 12:30pm – 1:00pm

**Venue:** Minister Cheyne's Office

**Apologies:**

| <b>Business and Better Regulation – Better Regulation Taskforce</b> |   |                     |                        |
|---|---|---------------------|------------------------|
| <b>Item</b>   |   | <b>Requested by</b> | <b>Action Officers</b> |
| 1.  | Standing items:<br>1.1 Action items (Nil) | MO                  | David Clapham          |
| 2.  | Better Regulation Discovery Report        | BRT                 | David Clapham          |
| <b>Out of Scope</b>   |   |                     |                        |

**Next Meeting: 16 Nov 2021**



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## BETTER REGULATION TASKFORCE

### BETTER REGULATION DISCOVERY REPORT

Sch 1 1.6

The Better Regulation Discovery Report could:

- establish a publicly understood framework for reporting by the BRT on better regulation, including frequency and format;
- contextualise the work of the BRT in light of other government measures, initiatives and reforms targeted at ACT business – this will help to clarify the scope of the BRT;
- reflect the breadth of matters considered by the BRT during its discovery phase including direct business engagement, the legislation review, the Commonwealth deregulation agenda, past reviews and experiences of other jurisdictions;
- define what is meant by 'better regulation';
- highlight the work of the BRT to date, including its approach to understanding and reviewing the stock of 'regulation';
- provide an opportunity for the BRT to work with business to develop components of the report, including case studies which capture the user experience regarding 'ease of doing business' in the ACT; and
- engage all stakeholders on the reform pathways that the BRT consider should be pursued under its next phase of activity.

# Out of Scope

# Out of Scope

|            |               |
|------------|---------------|
| Cleared by | David Clapham |
|            |               |

## Stuart, Katharine

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**From:** Engele, Sam  
**Sent:** Monday, 28 February 2022 9:48 AM  
**To:** Clapham, David; Kelly, Briege; Chesworth, Fiona; Wilkie, Rachel  
**Subject:** RE: Great work on the discovery report

OFFICIAL

Yes that is all fine.

---

**From:** Clapham, David <David.Clapham@act.gov.au>  
**Sent:** Monday, 28 February 2022 9:07 AM  
**To:** Engele, Sam <Sam.Engele@act.gov.au>; Kelly, Briege <Briege.Kelly@act.gov.au>; Chesworth, Fiona <Fiona.Chesworth@act.gov.au>; Wilkie, Rachel <Rachel.Wilkie@act.gov.au>  
**Subject:** RE: Great work on the discovery report

OFFICIAL

Thanks Sam for the time and comments.

Very relieved that you are happy with the product – I can't take any credit; Rachel, Briege and Fiona have shown remarkable dedication and considerable skill in pulling this together.

I would like to send to the MO asap - we will make the discussed edits and put a place holder in for the OAT sites data, but not hold up passing it on to the Office.

I would also like to share the Report now with Access Canberra, JACS and ED. Also Chantel Potter to put on her black hat. I presume you are ok with this?

Thanks

David

---

**From:** Engele, Sam <[Sam.Engele@act.gov.au](mailto:Sam.Engele@act.gov.au)>  
**Sent:** Sunday, 27 February 2022 7:58 PM  
**To:** Clapham, David <[David.Clapham@act.gov.au](mailto:David.Clapham@act.gov.au)>; Kelly, Briege <[Briege.Kelly@act.gov.au](mailto:Briege.Kelly@act.gov.au)>; Chesworth, Fiona <[Fiona.Chesworth@act.gov.au](mailto:Fiona.Chesworth@act.gov.au)>; Wilkie, Rachel <[Rachel.Wilkie@act.gov.au](mailto:Rachel.Wilkie@act.gov.au)>  
**Subject:** Great work on the discovery report

OFFICIAL

All,

The report looks good. It is coherent and gives a good sense of some of the specific changes that we intend to make. Congratulations.

I've made a few track changes (nothing major) and responded to a few of the comments. Also I agree with Fiona's suggestion on the reordering.

I added a little more on the experience over covid (in line with a discussion David and I had with the reg net people), and have a question on how many sites the outdoor activation taskforce 'activated'. If there are any other examples to this section it could be built out a bit more.

Once changes are accepted this is ok to send over to the Minister's office.

Sam

**SAM ENGELE**

Coordinator-General for Climate Action  
& Head of the Better Regulation Taskforce

Phone 02 6205 0230 | Mobile Sch 2.2(a)(ii)

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GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)



## Stuart, Katharine

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**From:** Engele, Sam  
**Sent:** Thursday, 28 October 2021 2:36 PM  
**To:** Chesworth, Fiona; Clapham, David  
**Subject:** Identifying and Evaluating Regulation Reforms - Productivity Commission

**OFFICIAL**

Further to our discussions about the reg reform methodology. I came across this report by the PC which could be useful to (a) frame up our methodology and (b) use some of the concepts in the discovery report. Have a read and maybe we can chat about it next week.

Identifying and Evaluating Regulation Reforms - Productivity Commission

<https://www.pc.gov.au/inquiries/completed/regulation-reforms/report/regulation-reforms.pdf>

**SAM ENGELE**

Coordinator-General for Climate Action  
& Head of the Better Regulation Taskforce

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## Stuart, Katharine

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**From:** Clapham, David  
**Sent:** Monday, 28 February 2022 4:26 PM  
**To:** Potter, Chantel; Lhuede, Nick; Pryce, David; McKinnon, Margaret; Martin, Victor (Health); Rynehart, Josh; Cubin, Derise; Grundy, Samantha; Bamford, Rebecca; Colussi, David; Springett, Emily; Kobus, Jonathan; Stewart-Moore, Karen; Kerkow, Kyla; Vroombout, Sue; McAulay, Heather; Lawrence, Ian  
**Cc:** Engele, Sam; Chesworth, Fiona; Better Regulation Taskforce; Wilkie, Rachel  
**Subject:** INPUT SOUGHT - Draft Discovery Report

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

### CABINET

Dear Colleagues

We will soon share with you via OneDrive a PDF of the Draft Better Regulation Taskforce Discovery Report for your review and comment.

#### Sch 1 1.6

For those of you with whom we have met to discuss the ideas and responses for the proposed forward work program, thank you for your time and input. You will note that the proposed program of reform includes some specific elements and action items that we had originally proposed but were subsequently removed after our discussions with you. This change reflects feedback from Minister Cheyne and her office on the type of measures they would like to see progressed during 2022-2023.

The Report will become a public facing document. The reform measures that form a forward work program as described in the Report are pitched at quite a high level. The covering submission will include greater detail on the measures for Cabinet consideration.

We would be grateful for any views that you might have now and during exposure on the Report. More than happy to set up times to discuss and to expand on anything in the report that requires further context/clarification from us.

Many thanks

David

**David Clapham** | Executive Branch Manager  
Better Regulation Taskforce | Economic and Regional Policy Branch | **Policy & Cabinet Division**  
☎ 02 6205 7261 | **Chief Minister, Treasury & Economic Development Directorate** | ACT Government  
Level 5, 220 London Circuit | GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)

## Stuart, Katharine

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**From:** Wilkie, Rachel  
**Sent:** Tuesday, 22 February 2022 5:29 PM  
**To:** Chesworth, Fiona  
**Subject:** Meeting with AC - 22 Feb 22  
**Attachments:** Meeting with AC - 22 Feb 22.docx

**Categories:** Trimmed, FOI

OFFICIAL

## Timeframes

- Discovery Report → Sch 1 1.6
- Draft completed this week

## Changes to the snapshot:

- Intent – duty (value of compliance)
- Piloting – new regulatory approaches [removing barriers, best path through for their ideas]
  - Removing prescriptive regulation that prevents innovation

## Sch 1 1.6

- Factsheets/checklist – broaden to information which explains the regulatory intent, and the risk being managed. How to comply.
  - AC – include information on how we do what we do, explaining why we do what we do.

## Discussion

- Positive about user mapping.
    - Margaret noted: good idea to choose with complex regulation as examples (cover range)
  - Business sentiments survey:
    - Noted AC's regular micro/macro survey.
    - This is due to be reviewed/updated.
    - There is an opportunity to align / expand on that.
  - Concierge – what is a good model:
    - See Josh's comments re person-centred approach.
  - Factsheets –
    - Should be topic specific, regularly updated.
- 

## **David P**

*"Saying Yes"* - Be clear about the risk and harm - remove barriers where it is not a problem. Simplify process to reach decisions quicker.

## **Josh R**

### **Person-centred approach**

Attuned to the individual and support to specific business

- Website redesign
- Engagement function – reach out
- Concierge – hand holding

Walk beside business – as a more holistic measure – that's a way to resource it.

- Regulatory engagement → Emily's team

## Future reforms

- What is a sustainable engagement – (OAT) time limited focused activity. What is the future of that?

- Digital identity – individual, business

## Stuart, Katharine

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**From:** Rynehart, Josh  
**Sent:** Wednesday, 23 February 2022 12:34 PM  
**To:** Clapham, David  
**Subject:** Proposal - Engagement Team\_  
**Attachments:** Proposal - Engagement Team\_.docx

OFFICIAL

This may help – noting this has not been endorsed or cleared, but may assist with some words for you

## Stuart, Katharine

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**From:** Saunders, Joe  
**Sent:** Wednesday, 16 March 2022 8:48 AM  
**To:** Clapham, David; ACDLO; Argy, Nicholas; Engele, Sam  
**Subject:** RE: Brief - BBR - Agreement to circulate Cabinet Submission Exposure Draft Discovery Phase Report and Forw  
**Attachments:** page 30 paras.png

Morning David and Sam

To assist with the discussion this afternoon, below are the Minister's comments on the cabsub and report.

### Major overarching comments:

- My one major concern is that I can't see anywhere in this that answers the question: what will it look like if it works? That is, how will we know we are making a difference? How are we going to measure the impact all of this work has made? This bit is critical.
- Less of a concern but not clear to me – this is no longer just a discovery phase report, but also contains the analysis and the agenda. Can we find a new way to reflect this which doesn't lose the fact that we've done several phases of work?

# Sch 1 1.6

### Report

- Page 28 (introduction) – quite repetitive – needs a fresh look. It's not just a Discovery Phase report as the last sentence suggests. Several places reflecting what the taskforce and report are designed to do. Think it can be shortened considerably.
- Page 29 – 'the success rate of such agendas has been poor' – this needs referencing or it should be deleted
- Page 30 – the final three paragraphs are not ordered in the most sensible way – picture attached refers
- Page 30 – section regarding the Event and Business Coordination Team should be a bit clearer. The section is telling a positive AC story but could do with a fresh look
- Page 31 – suggest this be titled "FINDINGS – STREAM 1 – POLICY AND LEGISLATIVE FRAMEWORKS" to aid consistency of what we are talking about
- Page 35 – subheadings change from the previous 'Jurisdictional Analysis' to 'Jurisdictional Scan' – needs to be consistent (and suggest 'Analysis' is better)
- Page 38 – suggest this be titled "FINDINGS – STREAM 2 – BUSINESS EXPERIENCE AND REGULATOR PERFORMANCE" as above (also we do mean performance or engagement?)
- Page 38 and beforehand – it is getting late so this might not make sense but – "tell us once" is described in 'Stream 1' but then referenced in "Stream 2" (which refers to the analysis about it being in the preceding pages) and then is in the agenda under "Stream 2". Should all just be in Stream 2.

- Night time economy work /text could probably link in reference to Statement of Ambition for the Arts + the CM's ambition being released tomorrow.
- A bit more detail or a single example would be beneficial in the alignment with other jurisdiction sections of procurement and night-time economy (outside of the appendices)

#### Appendices

- Page 113 – the language throughout this and the next page is concerning – while it reflects what we were told it can still have a look at tone like other parts of the report have had.

# Sch 1 1.6

---

**From:** Saunders, Joe

**Sent:** Tuesday, 15 March 2022 11:45 AM

**To:** Clapham, David <David.Clapham@act.gov.au>; ACDLO <ACDLO@act.gov.au>; Argy, Nicholas <Nicholas.Argy@act.gov.au>

**Subject:** Brief - BBR - Agreement to circulate Cabinet Submission Exposure Draft Discovery Phase Report and Forw

Thanks Morgan

David, Morgan, fyi I've secured agreement from CMO for this to be lodged on Thursday for exposure circulation (rather than Wednesday).

Joe

---

**From:** Potter, Morgan <[Morgan.Potter@act.gov.au](mailto:Morgan.Potter@act.gov.au)> **On Behalf Of** ACDLO

**Sent:** Friday, 11 March 2022 8:21 PM

**To:** Argy, Nicholas <[Nicholas.Argy@act.gov.au](mailto:Nicholas.Argy@act.gov.au)>; Saunders, Joe <[Joe.Saunders@act.gov.au](mailto:Joe.Saunders@act.gov.au)>

**Subject:** SIGNING - 20220311 - Brief - BBR - Agreement to circulate Cabinet Submission Exposure Draft Discovery Phase Report and Forw

**Importance:** High

**OFFICIAL**

Good Evening,

I have placed the cabinet brief and attachment including discovery report [here](#).

**Morgan Potter** | Directorate Liaison Officer | Access Canberra

Phone: [Sch 2.2\(a\)\(ii\)](#) | Email: [acdlo@act.gov.au](mailto:acdlo@act.gov.au)

**Chief Minister Treasury and Economic Development Directorate** | ACT Government

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Minister for Business and Better Regulation

Minister for Consumer Affairs

Minister for Planning and Land Management

During the Discovery Phase, the Taskforce collaborated directly with businesses to provide the opportunity to contribute ideas and solutions that would best support their success. These ideas build on the already embedded 'how can we help?' approach of government agencies and regulators, with the view of improving the experience for everyone. A catalogue of what we heard from business is at [Appendix C](#).

The Taskforce also commissioned a wide-ranging Legislative Review to identify potential projects for reform. The potential projects developed through the Legislative Review have been considered alongside the other inputs into the Discovery Phase and have informed the Better Regulation Agenda. A summary of the findings of the Legislative Review is provided at [Appendix D](#).

Finally, the Taskforce has considered regulatory reform approaches elsewhere in Australia and abroad. Key understandings from a jurisdictional analysis to inform a regulatory quality framework are provided at [Appendix E](#), *in addition to* 

*findings*  
~~The issues raised by business with the Taskforce during the Discovery Phase can be broadly categorised as issues covering:~~

- existing policy and legislative frameworks; and
- the business experience when interacting with government, including regulator capability and support.

~~For each emerging issue, we have summarised the perspectives and ideas we heard from business. We have also linked to relevant projects identified through the Legislative Review and noted relevant learnings from other jurisdictions, including the Commonwealth Deregulation Agenda ([Appendix F](#)) and regulatory quality framework fundamentals ([Appendix G](#)).~~

*next page, opening para.*



## Stuart, Katharine

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**From:** Saunders, Joe  
**Sent:** Tuesday, 1 March 2022 8:53 PM  
**To:** Clapham, David; ACDLO; Argy, Nicholas  
**Cc:** Chesworth, Fiona; Better Regulation Taskforce  
**Subject:** RE: Draft Discovery Report

Hi David, Fiona and team

Thanks again for sending this through and for the significant work that went into it. Copied below is the Minister's feedback.

Some of it is what was discussed at today's briefing, but the substantive piece is under the Findings/What we heard subheading. As you'll see, the feedback is that everything is there content wise, but structurally the Minister would prefer for that content to be organised by theme or matter, rather than organised by 'work source'.

Separately, I'm not sure whether this instruction has come through to directorates yet, but our understanding is that substantive policy/strategy documents for cabinet consideration need to go to ERC first. Not as a business case seeking funding, but so that ERC considers the potential fiscal implications at a broad level and then provides covering advice (for example, acknowledging that the proposed work program has certain fiscal implications) that accompanies the document moving to full cabinet consideration. I think the Discovery Report fits into the sorts of documents this policy applies to so, subject to you receiving contrary advice from cabinet office, I think ERC consideration is the first step. (Again, to be completely clear, this is outside the Budget process.)

We've got the cabinet number request form with us – given the above feedback, grateful if you could let me know  
Sch 1 1.6

Thanks again and kind regards  
Joe

\*\*\*\*\*

### General

- Language
  - o Review tone, particularly around what Government 'needs' to do, and how some behaviours are perceived
  - o "We will" language not ideal and then goes into outcomes which are a little vague – think we can strengthen the outcomes
- Should state somewhere early that the phases are not necessarily distinct ie there is overlap between Phase 1 and 2

### Introduction

- Good

### Purpose

- See below

### Business landscape chapter

- Can probably all be moved to an appendix with some high level comments that can sit under 'Purpose'

### What is regulation?

- Include stronger elements about the benefits of regulation

### Managing the cumulative burden of regulation

- Change this heading/delete heading
- Shorten this
- Final paragraph can probably be put under 'Purpose'

## Findings/What we heard

- I think what has occurred here is that we have framed this in terms of the *work* (legislation review, discovery, scan across other jurisdictions) that was undertaken and the *themes* that arose in each part of the work. However, I think it would be better framed as the *themes* that we have identified from the work, and what the work threw up/the opportunities that came through. This will make it more joined together, will make analysis easier, and will make the work program easier to understand going forward. I appreciate that different (and some overlapping) themes were identified under each body of work, but I think we can probably put all of what we heard across all three bodies of work and pull out the themes. **This is *not* a rewrite, just a restructure.**
- In practical terms, the headings would look like:
- STREAM 1: Policy and Legislation:
  - o Theme 1: Procurement
    - What we heard
    - Legislative review
    - Environmental scan
  - o Theme 2: Night time economy
    - What we heard
    - Legislative review
    - Environmental scan
  - o Theme 3:
  - o And so on (acknowledging that it may be the case that not every theme has substantive input from one of the three 'work sources').
- STREAM 2: Business experience and regulator performance:
  - o Theme 1: Enhance business understanding of government and government understanding of business
    - What we heard
    - Legislative review
    - Environmental scan
  - o Theme 2: Simplify government-business interactions [I am not wedded to any of these as themes, using as example only]
    - What we heard
    - Legislative review
    - Environmental scan
  - o And so on. There will be fewer – even as few as 2 or 3 – themes here I suspect, as more things will come under fewer headings. For some of the themes, nothing would have been thrown up in the legislative review, for example.

## Better Regulation Agenda

- With the above having been restructured, we can detail that Streams 1 and 2 will operate concurrently, and we will be tackling the first two themes under each stream for the next 12 months
- This restructure should also make it much easier to revisit the diagram with the streams (which I do want to be vertical) and will help with the level of detail – more than in the last version I saw, but less than in the first version.
- We should include some detail on how we will measure the impact of the changes we intend to make.

## Interim reporting

- Flag that this is the discovery report and has identified the areas of work, and provides the first 12 months of work
- We will provide an update in the form of an interim report in 12 months' time (which will go to Cabinet first), and this will detail what's been done to date and the next themes that will be tackled

---

**From:** Clapham, David <David.Clapham@act.gov.au>

**Sent:** Monday, 28 February 2022 10:30 AM

**To:** ACDLO <ACDLO@act.gov.au>; Argy, Nicholas <Nicholas.Argy@act.gov.au>; Saunders, Joe <Joe.Saunders@act.gov.au>

**Cc:** Chesworth, Fiona <Fiona.Chesworth@act.gov.au>; Better Regulation Taskforce

<BetterRegulationTaskforce@act.gov.au>

**Subject:** FW: Draft Discovery Report

**OFFICIAL: Sensitive**

Dear Nick and Joe

As discussed with Nick on Friday, attached is the Draft Discovery Report for discussion at tomorrow's update briefing with the Minister.

You will note that there is a place holder for a statistic on the OAT activations and we will insert this figure as soon as we have it. We are also taking advice from CMTEDD comms re presentation and readability.

Morgan – grateful for your assistance in making this available to Nick and Joe.

Many thanks

**David Clapham** | Executive Branch Manager

Better Regulation Taskforce | Economic and Regional Policy Branch | **Policy & Cabinet Division**

☎ 02 6205 7261 | **Chief Minister, Treasury & Economic Development Directorate** | ACT Government

Level 5, 220 London Circuit | GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)

## Stuart, Katharine

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**From:** Springett, Emily  
**Sent:** Thursday, 24 February 2022 10:49 AM  
**To:** Pryce, David; Clapham, David; Engele, Sam  
**Cc:** AC - Office of the DDG; McKinnon, Margaret; Cubin, Derise; Rynehart, Josh  
**Subject:** RE: reg perf work stream DC attempt  
**Attachments:** reg perf work stream DC attempt (002).docx

OFFICIAL

Hi David C

Also sending through my feedback as discussed yesterday – please see tracked additions/suggestion or edits.

Also happy to discuss. Hope it assists.

Emily

---

**From:** Pryce, David <David.Pryce@act.gov.au>  
**Sent:** Thursday, 24 February 2022 10:30 AM  
**To:** Clapham, David <David.Clapham@act.gov.au>; Engele, Sam <Sam.Engele@act.gov.au>  
**Cc:** AC - Office of the DDG <ACOfficeoftheDDG@act.gov.au>; McKinnon, Margaret <Margaret.McKinnon@act.gov.au>; Cubin, Derise <Derise.Cubin@act.gov.au>; Rynehart, Josh <Josh.Rynehart@act.gov.au>; Springett, Emily <Emily.Springett@act.gov.au>  
**Subject:** reg perf work stream DC attempt

OFFICIAL

Hi David,

Thanks again for taking the time to listen to our views and take these on board.

Some quick feedback via tracked changes. I think the wording (as indicated) could be improved here.

Happy to discuss.

David Pryce | Deputy Director-General  
Head of Access Canberra  
Phone: 02 6205 9898 | Email: [david.pryce@act.gov.au](mailto:david.pryce@act.gov.au)  
Access Canberra | Chief Minister Treasury and Economic Development Directorate | ACT Government  
GPO Box 158, Canberra City, ACT 2601 | [www.act.gov.au/accessCBR](http://www.act.gov.au/accessCBR)



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# Better Regulation Taskforce 2 Year Work Program

## Policy and Legislation

Regulators will clearly communicate ~~regulatory objectives & duties on for~~ business

- ~~Developing~~ Improve and target information so it is relevant to business and provides: resources, including websites and stand alone toolkits, that:
  - ~~make clear the~~ regulatory outcomes and the harms we seek ~~to to be~~ minimised – the value of compliance;
  - ~~explain how we are structured and who to~~ ~~contact~~ key contacts and where to go for information and support;
  - Provide clear guidance, connections and support about ~~on~~ regulatory obligations and requirements and steps ~~to to~~ start and run a successful business;
  - ~~Support business to quickly find the~~ information they need, and the level of support that suits their circumstances. ~~opportunities to provide~~ feedback so regulators can continue to enhance information provided to business.

We will manage

### Business will only tell us once

- The Taskforce will work iteratively to identify opportunities to streamline processes, reduce overlap and duplication for business across ACT Government.
- \*What about we will better use data to inform regulatory focus and protections? reg hku

## Business Experience and Regulator Performance

Regulator engagement will provide clear information and tailored support

Government will provide tailored support to ~~navigate meet~~ regulatory barriers, requirements ~~(ie say 'yes')~~ and find ways to ~~remove regulatory barriers to business say~~ 'yes'

- Introduce a dedicated, proactive business support team to work one-on-one with business to educate and problem solve. This would include working with existing or new and emerging businesses to find solutions ~~or and~~ enable innovation.
- We will be clear on the harms and risks that set our requirements, remove barriers where we can and work with business with you to support innovation.

### We will better understand the experiences of business

- Survey of business sentiment to measure the quantity and quality of interactions of business with government.
- User experience mapping of key business personas
- Provide real-time feedback following proactive engagement with business to regulators and policy makers to ensure ongoing improvement and targeted business support.
- Pilot a model for human-centred design for new regulation.
- Feed back to business what we are hearing and seeing through compliance activity and engagements to support transparent engagement.

## Stuart, Katharine

---

**From:** McKinnon, Margaret  
**Sent:** Wednesday, 16 February 2022 1:46 PM  
**To:** Clapham, David  
**Subject:** RE: TO NOTE: Better Regulation Taskforce - Work program - seeking comments

### CABINET

Oh yeah – I get the AMR bit – however a meeting to flesh out the other options is good – because we are all looking at AMR often in other forums.

Also Sam will be aware – we are getting more and more anxious about our process backlogs and the ability to squeeze in other work. We aint alone – however some of our backlogs generate a bucketload of pain from citizens.

margaret

**Margaret McKinnon | Chief Operating Officer**

Phone: [02 6205 7261](tel:0262057261) | Email: [Margaret.McKinnon@act.gov.au](mailto:Margaret.McKinnon@act.gov.au)

**Access Canberra | Chief Minister Treasury and Economic Development Directorate | ACT Government**

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---

**From:** Clapham, David <David.Clapham@act.gov.au>  
**Sent:** Wednesday, 16 February 2022 11:42 AM  
**To:** McKinnon, Margaret <Margaret.McKinnon@act.gov.au>; Pryce, David <David.Pryce@act.gov.au>; Engele, Sam <Sam.Engele@act.gov.au>  
**Cc:** AC - Office of the DDG <ACOfficeoftheDDG@act.gov.au>; Rynehart, Josh <Josh.Rynehart@act.gov.au>; Barbaro, Theresa <Theresa.Barbaro@act.gov.au>; Poulos, Effie <Effie.Poulos@act.gov.au>; Chesworth, Fiona <Fiona.Chesworth@act.gov.au>  
**Subject:** Re: TO NOTE: Better Regulation Taskforce - Work program - seeking comments

That would be great thanks Margaret - apologies also for the silence on your earlier email - I was waiting for Sam to send out this package to you. Things have changed a little following our meeting with Min Cheyne yesterday.

I take your point re AMR but we want to include those elements of the Cth dereg program that the ACT has committed to supporting as these are considerable draws on our resources and we want to reflect that in our forward program.

Talk soon - I've copied in Effie and Theresa who manage Sam and my diaries...

David

**David Clapham | Executive Branch Manager**

Better Regulation Taskforce | Economic and Regional Policy Branch | **Policy & Cabinet Division**

[☎ 02 6205 7261](tel:0262057261) | **Chief Minister, Treasury & Economic Development Directorate** | ACT Government

Level 5, [220 London](https://www.act.gov.au/220-london-circuit) Circuit | GPO [Box 158 Canberra ACT 2601](https://www.act.gov.au/gpo-box-158-canberra-act-2601) | [www.act.gov.au](http://www.act.gov.au)

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**From:** McKinnon, Margaret <[Margaret.McKinnon@act.gov.au](mailto:Margaret.McKinnon@act.gov.au)>  
**Sent:** Wednesday, February 16, 2022 11:34 am  
**To:** Pryce, David; Engele, Sam; Clapham, David  
**Cc:** AC - Office of the DDG; Rynehart, Josh  
**Subject:** FW: TO NOTE: Better Regulation Taskforce - Work program - seeking comments

CABINET

Sam/David

It would be great to have a discussion about this work. I appreciate we had early consultation and have worked with you – however I reckon we are all getting to the part of the story where the rubber hits the road on the weight and complexity of some of these initiatives. If you are comfortable, I'll ask the office to find a time to discuss. I'd propose to omit AMR – we seem to be all over that on a number of fronts – however the model laws, fact sheet for business etc we'd want to be on the same page with you about expectations.

**Margaret McKinnon | Chief Operating Officer**  
Phone: [Sch 2.2\(a\)\(ii\)](tel:0262059898) | Email: [Margaret.McKinnon@act.gov.au](mailto:Margaret.McKinnon@act.gov.au)  
**Access Canberra | Chief Minister Treasury and Economic Development Directorate | ACT Government**  
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---

**From:** Pryce, David <[David.Pryce@act.gov.au](mailto:David.Pryce@act.gov.au)>  
**Sent:** Tuesday, 15 February 2022 9:22 AM  
**To:** McKinnon, Margaret <[Margaret.McKinnon@act.gov.au](mailto:Margaret.McKinnon@act.gov.au)>  
**Cc:** AC - Office of the DDG <[ACOfficeoftheDDG@act.gov.au](mailto:ACOfficeoftheDDG@act.gov.au)>  
**Subject:** TO NOTE: Better Regulation Taskforce - Work program - seeking comments

CABINET

Hi Margaret,

For your awareness – note caveat on further dissemination.

It would be worthwhile to arrange a meeting with Sam Engele and David Clapham to talk through the proposed work program, especially to understand potential future impacts upon Access Canberra. This can also speed up our input/comments on the documents.

Appreciate if you could set this up.

Thanks,

**David Pryce | Deputy Director-General**  
**Head of Access Canberra**  
Phone: 02 6205 9898 | Email: [david.pryce@act.gov.au](mailto:david.pryce@act.gov.au)  
**Access Canberra | Chief Minister Treasury and Economic Development Directorate | ACT Government**  
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**From:** Engele, Sam <[Sam.Engele@act.gov.au](mailto:Sam.Engele@act.gov.au)>  
**Sent:** Monday, 14 February 2022 6:42 PM  
**To:** Pryce, David <[David.Pryce@act.gov.au](mailto:David.Pryce@act.gov.au)>; Konti, Bettina <[Bettina.Konti@act.gov.au](mailto:Bettina.Konti@act.gov.au)>; Snow, Malcolm <[Malcolm.Snow@act.gov.au](mailto:Malcolm.Snow@act.gov.au)>; Walker, IanS <[IanS.Walker@act.gov.au](mailto:IanS.Walker@act.gov.au)>; O'Neill, Carolyn <[Carolyn.O'Neill@act.gov.au](mailto:Carolyn.O'Neill@act.gov.au)>; Bowdery, John <[John.Bowdery@act.gov.au](mailto:John.Bowdery@act.gov.au)>; Ng, Daniel <[Daniel.Ng@act.gov.au](mailto:Daniel.Ng@act.gov.au)>; Arthy, Kareena <[Kareena.Arthy@act.gov.au](mailto:Kareena.Arthy@act.gov.au)>; Kobus, Jonathan <[Jonathan.Kobus@act.gov.au](mailto:Jonathan.Kobus@act.gov.au)>; Miners, Stephen <[Stephen.Miners@act.gov.au](mailto:Stephen.Miners@act.gov.au)>; Hocking, Stuart <[Stuart.Hocking@act.gov.au](mailto:Stuart.Hocking@act.gov.au)>; Salisbury, Kim <[Kim.Salisbury@act.gov.au](mailto:Kim.Salisbury@act.gov.au)>; Smyth, Brendan <[Brendan.Smyth@act.gov.au](mailto:Brendan.Smyth@act.gov.au)>; Perkins, Anita <[Anita.Perkins@act.gov.au](mailto:Anita.Perkins@act.gov.au)>; West, Damian <[Damian.West@act.gov.au](mailto:Damian.West@act.gov.au)>; Snow, Malcolm <[Malcolm.Snow@act.gov.au](mailto:Malcolm.Snow@act.gov.au)>; Holmes, Lisa <[Lisa.Holmes@act.gov.au](mailto:Lisa.Holmes@act.gov.au)>; Croke, Leesa <[Leesa.Croke@act.gov.au](mailto:Leesa.Croke@act.gov.au)>  
**Cc:** Clapham, David <[David.Clapham@act.gov.au](mailto:David.Clapham@act.gov.au)>; Chesworth, Fiona <[Fiona.Chesworth@act.gov.au](mailto:Fiona.Chesworth@act.gov.au)>; Better Regulation Taskforce <[BetterRegulationTaskforce@act.gov.au](mailto:BetterRegulationTaskforce@act.gov.au)>  
**Subject:** FOR COMMENT: Better Regulation Taskforce - Work program

Colleagues

The Better Regulation Taskforce is authoring its report on the Discovery Phase. It will include a forward work program and I wanted to send to you our early thinking on this.

Taking into account what we have heard from our engagements, a jurisdictional analysis and the results of Phase 1 of the Legislation Review, we have collated a comprehensive list of possible reform measures which could be taken forward. As you might expect, the measures range from small 'quick fixes' to some very large sectoral wide initiatives and everything in between.

Where we have been able to identify a unifying idea or theme, we have brought a number of the measures together into reform packages.

- There are six potential reform packages and these are identified in Table A of [Attachment B](#) - Supporting Analysis for Reform Packages.
- Tables B and C in [Attachment B](#) then list every single measure we have identified and categorised them as either less complex or more complex respectively. We also note where these single measures could be part of a reform package.

This approach opens the possibility of building a forward work program by selecting one reform package (say, for example, entertainment and night time economy) along with a number of stand-alone measures.

- We have modelled such an approach in [Attachment A](#) - Suggested Work Program for 2022 and Discovery Report Timeline.

I ask that you do not share these further outside of key personnel in your agency as we are yet to discuss these with Ministers. The matters will also be subject to Cabinet approval.

We are keen to hear your first impressions and thoughts. We hope to make the draft Discovery Phase report available soon.

If there are any questions or comments, including a fuller description of any of the measures, please reach out to me or [@Clapham, David](#) or any of the team via [@Better Regulation Taskforce](#)



Regards,

**SAM ENGELE**

Coordinator-General for Climate Action  
& Head of the Better Regulation Taskforce

Phone 02 6205 0230 | Mobile Sch 2.2(a)(ii)  
Email [Sam.Engele@ACT.gov.au](mailto:Sam.Engele@ACT.gov.au)

Policy and Cabinet  
Chief Minister, Treasury and Economic Development Directorate  
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GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)



**Stuart, Katharine**

---

**From:** Bamford, Rebecca  
**Sent:** Friday, 11 March 2022 11:58 AM  
**To:** Clapham, David  
**Cc:** Chesworth, Fiona; Wilkie, Rachel; Gianakis, Steven  
**Subject:** RE: Discovery Report and Measure Snapshots

**CABINET**

Hi David, Fiona and Rachel,

Thank you for circulating the updated documents ahead of the cabinet process. Comments from the perspective of planning for entertainment are as follows:

**Discovery Phase Report**

| Page | Reference  | Comment   |
|------|--|---|
| 9    | Alignment with Legislative Review – last paragraph | Suggest wording is changed to be the same as in Sch 1 1.6   |
| 19   | Figure 1: NT & EE box                              | Note and support this inclusion.<br>Propose including ‘planning’ in addition to noise and liquor in the final dot point to highlight the relationship between existing planning-led regulatory reform work (PaGA item, Entertainment Action Plan, Planning Review etc). |



Sch 2.2(a)(ii) please ensure all emails after next Friday on entertainment economy/BRT work is directed to Steven Gianakis, Senior Director, Strategic Planning & Reform at EPSDD.

Kind regards,

**Rebecca Bamford**

Working remotely – I can be reached via Microsoft Teams, phone: 02 6207 8749 or email: rebecca.bamford@act.gov.au  
**Strategic Planning and Reform | Planning and Urban Policy | Environment, Planning and Sustainable Development Directorate | ACT Government**

---

**From:** Clapham, David <David.Clapham@act.gov.au>

**Sent:** Thursday, 10 March 2022 5:44 PM

**To:** Moroney, Rebecca (Health) <Rebecca.L.Moroney@act.gov.au>; Ng, Daniel <Daniel.Ng@act.gov.au>; Hakelis, Robyn <Robyn.Hakelis@act.gov.au>; Muscat, Linda <Linda.Muscat@act.gov.au>; Vaile, Jodie <Jodie.Vaile@act.gov.au>; Mangeruca, Giuseppe <Giuseppe.Mangeruca@act.gov.au>; Potter, Chantel <Chantel.Potter@act.gov.au>; Lhuede, Nick <Nick.Lhuede@act.gov.au>; Pryce, David <David.Pryce@act.gov.au>; McKinnon, Margaret <Margaret.McKinnon@act.gov.au>; Martin, Victor (Health) <Victor.Martin@act.gov.au>; Rynehart, Josh <Josh.Rynehart@act.gov.au>; Cubin, Derise <Derise.Cubin@act.gov.au>; Grundy, Samantha <Samantha.Grundy@act.gov.au>; Bamford, Rebecca <Rebecca.Bamford@act.gov.au>; Colussi, David <David.Colussi@act.gov.au>; Springett, Emily <Emily.Springett@act.gov.au>; Kobus, Jonathan <Jonathan.Kobus@act.gov.au>; Stewart-Moore, Karen <Karen.Stewart-Moore@act.gov.au>; Kerkow, Kyla <Kyla.Kerkow@act.gov.au>; Vroombout, Sue <Sue.Vroombout@act.gov.au>; McAulay, Heather <Heather.McAulay@act.gov.au>; Lawrence, Ian <Ian.Lawrence@act.gov.au>; Chan, Yu-Lan <Yu-Lan.Chan@act.gov.au>; Short, Rachael <Rachael.Short@act.gov.au>; Mirzabegian, Sanaz <Sanaz.Mirzabegian@act.gov.au>; Callaghan, Thomas <Thomas.Callaghan@act.gov.au>; Maclachlan, Hugh <Hugh.Maclachlan@act.gov.au>; Mahar, Nicole <Nicole.Mahar@act.gov.au>; Polglase, David <David.Polglase@act.gov.au>

**Cc:** Chesworth, Fiona <Fiona.Chesworth@act.gov.au>; Better Regulation Taskforce <BetterRegulationTaskforce@act.gov.au>; Kelly, Briege <Briege.Kelly@act.gov.au>; Wilkie, Rachel <Rachel.Wilkie@act.gov.au>; Engele, Sam <Sam.Engele@act.gov.au>

**Subject:** Discovery Report and Measure Snapshots

## CABINET

Colleagues

You will shortly receive an invitation to share two files through OneDrive:

- The draft Better Regulation Taskforce Discovery Report reflecting feedback received; and
- A proposed attachment to the Cabinet Submission – the “measure snapshots”. This document seeks to provide Cabinet with more detail on the proposed measures that make up the forward work program described in the Report.

We are looking to clear the Cabinet package to Minister Cheyne tomorrow. We welcome any comments following your review, and will seek to reflect any feedback, including into next week as we finalise with the Minister’s Office for Cabinet circulation. We also expect that further edits will be required as we move through exposure circulation for both ERC and Cabinet.

Thank you again for your support and engagement through this process. Please don’t hesitate to contact me with any issues.

Best

David

**David Clapham** | Executive Branch Manager

Better Regulation Taskforce | Economic and Regional Policy Branch | **Policy & Cabinet Division**

☎ 02 6205 7261 | **Chief Minister, Treasury & Economic Development Directorate** | ACT Government  
Level 5, 220 London Circuit | GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)

## Stuart, Katharine

---

**From:** Rynehart, Josh  
**Sent:** Wednesday, 2 March 2022 2:02 PM  
**To:** Chesworth, Fiona; Clapham, David  
**Cc:** Springett, Emily  
**Subject:** RE: Proposal - business support

OFFICIAL

Both. It also includes an HPS resource to support finding ways to do things better. We are working on words at the moment – but I am also finding that staring out the window is just as effective in documenting the amorphous blob of a concept of what we are trying to achieve....

---

**From:** Chesworth, Fiona <Fiona.Chesworth@act.gov.au>  
**Sent:** Wednesday, 2 March 2022 1:52 PM  
**To:** Rynehart, Josh <Josh.Rynehart@act.gov.au>; Clapham, David <David.Clapham@act.gov.au>  
**Cc:** Springett, Emily <Emily.Springett@act.gov.au>  
**Subject:** RE: Proposal - business support

OFFICIAL

Ok thanks for clarifying.

And so did the document you sent through Josh with \$ included funding for both or just the boots on the ground CODID-10 compliance pivot?

As I can (ie as soon as I have written it) I will share the detailed description of this measure for your comment and consideration.

F

---

**From:** Rynehart, Josh <[Josh.Rynehart@act.gov.au](mailto:Josh.Rynehart@act.gov.au)>  
**Sent:** Wednesday, 2 March 2022 1:46 PM  
**To:** Chesworth, Fiona <[Fiona.Chesworth@act.gov.au](mailto:Fiona.Chesworth@act.gov.au)>; Clapham, David <[David.Clapham@act.gov.au](mailto:David.Clapham@act.gov.au)>  
**Cc:** Springett, Emily <[Emily.Springett@act.gov.au](mailto:Emily.Springett@act.gov.au)>  
**Subject:** RE: Proposal - business support

OFFICIAL

Yep, that paper was focussed on the boots on the ground for direct engagement. The OAT and event coordination team would be there for phone/web enquiries as the place to talk.

Neither the boots on the ground or the OAT are funded beyond 30/6/22, so will cease unless we do something.

J

---

**From:** Chesworth, Fiona <[Fiona.Chesworth@act.gov.au](mailto:Fiona.Chesworth@act.gov.au)>  
**Sent:** Wednesday, 2 March 2022 1:24 PM  
**To:** Rynehart, Josh <[Josh.Rynehart@act.gov.au](mailto:Josh.Rynehart@act.gov.au)>; Clapham, David <[David.Clapham@act.gov.au](mailto:David.Clapham@act.gov.au)>  
**Cc:** Springett, Emily <[Emily.Springett@act.gov.au](mailto:Emily.Springett@act.gov.au)>  
**Subject:** RE: Proposal - business support

OFFICIAL

Yep got that 😊. I guess what is not clear to me is how we are thinking about those individuals who don't necessarily want/need face to face visit from the team but still want to talk to someone. Is this Leah's team? And if so this is a continuation of the service that she is already offering right?

Thanks  
Fiona

---

**From:** Rynehart, Josh <[Josh.Rynehart@act.gov.au](mailto:Josh.Rynehart@act.gov.au)>  
**Sent:** Wednesday, 2 March 2022 12:27 PM  
**To:** Clapham, David <[David.Clapham@act.gov.au](mailto:David.Clapham@act.gov.au)>; Chesworth, Fiona <[Fiona.Chesworth@act.gov.au](mailto:Fiona.Chesworth@act.gov.au)>  
**Cc:** Springett, Emily <[Emily.Springett@act.gov.au](mailto:Emily.Springett@act.gov.au)>  
**Subject:** Proposal - business support

OFFICIAL

Hiya

This doc may assist with some thinking about the implementation of the business support team. While this is operationally focussed, it gives a good outline of what the team can pivot to and the intel coming from business

J

## Stuart, Katharine

---

**From:** Saunders, Joe  
**Sent:** Monday, 14 February 2022 3:41 PM  
**To:** Engele, Sam; Argy, Nicholas  
**Cc:** Clapham, David; Chesworth, Fiona  
**Subject:** RE: Better Regulation Taskforce - Work program and AMR

**Categories:** FOI

Thanks very much for sending this through Sam, and for all the work that the Taskforce has put into it.

Looking forward to the discussion tomorrow.

If possible, we'll let you know in advance if there's anything in particular the Minister may raise.

Joe

---

**From:** Engele, Sam <Sam.Engele@act.gov.au>  
**Sent:** Friday, 11 February 2022 9:50 AM  
**To:** Saunders, Joe <Joe.Saunders@act.gov.au>; Argy, Nicholas <Nicholas.Argy@act.gov.au>  
**Cc:** Clapham, David <David.Clapham@act.gov.au>; Chesworth, Fiona <Fiona.Chesworth@act.gov.au>  
**Subject:** Better Regulation Taskforce - Work program and AMR  
**Importance:** High

### CABINET

Joe and Nick

As discussed, we wanted to send to you our thinking around a possible forward work program.

Taking into account what we have heard from our engagements, a jurisdictional analysis and the results of Phase 1 of the Legislation Review, we have collated a comprehensive list of possible reform measures which could be taken forward. As you might expect, the measures range from small 'quick fixes' to some very large sectoral wide initiatives and everything in between.

Where we have been able to identify a unifying idea or theme, we have brought a number of the measures together into reform packages.

- There are six potential reform packages and these are identified in Table A of the attachment entitled [Supporting Analysis for Reform Packages](#).
- Tables B and C in this Attachment then list every single measure we have identified and categorised them as either less complex or more complex respectively. We also note where these single measures could be part of a reform package.

This approach means opens the possibility of building a forward work program by selecting one reform package (say, for example, entertainment and night time economy) along with a number of stand-alone measures.

- We have modelled such an approach in the [Suggested Work Program for 2022 and Discovery Report Timeline](#) attachment.

We look forward to discussing this at our regular update meeting next Tuesday. We have set out some questions below which might help guide thinking around the prioritisation of these measures and confirm a forward work program for the Taskforce.

## Questions

- 1) How would you like the forward work program for the Taskforce to be structured? We understand that there are three potential approaches to how the work program could be structured:
- A centrepiece reform package One reform package plus a number of stand-alone measures; or
  - A raft of stand-alone measures which would serve as building blocks to larger reform and work together to reduce accumulative regulatory burden; or
  - Two reform packages each of which would have a sizeable impact.

Is there an ideal balance to strike between large reform package measures and smaller stand-alone measures for the Taskforce's forward work program?

It is important to note that we consider there are some matters which the Taskforce must do and which will impact on available resources. This will need to be factored in when settling on the forward work program and they include:

- AMR
- Modernising document execution
- Employment agents
- Model rules

as well as our BAU on drones and sunseting.

- 2) From the Minister's engagement with business, is there a measure or reform that is not reflected or that should be included in the forward work program?
- 3) Regulator performance and culture was a theme that emerged through our engagement with business. In our suggested workplan, do you have an idea about how would you like us to consider and stage reform in relation to this theme?
- Working on the entertainment and night-time economy reform package would provide an opportunity for the Taskforce to collaborate with Access Canberra to develop business guides (e.g. factsheets and checklists) for specified industries and model best practice regulator capability and posture. Regulator capability and performance could also be further supported and strengthened by putting in place regulatory powers legislation, establishing a business helpdesk (concierge) for business enquiries, and/or having a case manager approach to regulated activities.

## Sch 1 1.6

- 5) Is there a preference for the Discovery Report to establish the work program for the rest of the Taskforce's term? Or just for 2022 with a view to revisiting the work plan for 2023 at the end of this year/early next year?

## Sch 1 1.2

Feel free to give me a call if you would like to discuss before the meeting.

Regards,

### **SAM ENGELE**

Coordinator-General for Climate Action  
& Head of the Better Regulation Taskforce

Phone 02 6205 0230 | Mobile [Sch 2.2\(a\)\(ii\)](#)

Email [Sam.Engele@ACT.gov.au](mailto:Sam.Engele@ACT.gov.au)

Policy and Cabinet

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## Stuart, Katharine

---

**From:** Clapham, David  
**Sent:** Thursday, 10 March 2022 9:16 AM  
**To:** Engele, Sam; Chesworth, Fiona  
**Cc:** Wilkie, Rachel; Hosie, Donna; Kelly, Briega  
**Subject:** RE: DR Package - update

**Categories:** FOI

### CABINET

Thanks Sam really appreciate the comments. To clarify: do you want the comms snapshot product to replace or accompany the existing snapshot attachment?

---

**From:** Engele, Sam <Sam.Engele@act.gov.au>  
**Sent:** Wednesday, 9 March 2022 11:20 PM  
**To:** Chesworth, Fiona <Fiona.Chesworth@act.gov.au>; Clapham, David <David.Clapham@act.gov.au>  
**Cc:** Wilkie, Rachel <Rachel.Wilkie@act.gov.au>; Hosie, Donna <Donna.Hosie@act.gov.au>; Kelly, Briega <Briega.Kelly@act.gov.au>  
**Subject:** RE: DR Package - update

### CABINET

Thanks Fiona, Quite a rewrite. I think the format flows well. I've tracked in only one material comment as a comment in relation to the reporting.

My views on your questions in **red** below

---

**From:** Chesworth, Fiona <[Fiona.Chesworth@act.gov.au](mailto:Fiona.Chesworth@act.gov.au)>  
**Sent:** Wednesday, 9 March 2022 7:19 PM  
**To:** Engele, Sam <[Sam.Engele@act.gov.au](mailto:Sam.Engele@act.gov.au)>; Clapham, David <[David.Clapham@act.gov.au](mailto:David.Clapham@act.gov.au)>  
**Cc:** Wilkie, Rachel <[Rachel.Wilkie@act.gov.au](mailto:Rachel.Wilkie@act.gov.au)>; Hosie, Donna <[Donna.Hosie@act.gov.au](mailto:Donna.Hosie@act.gov.au)>; Kelly, Briega <[Briega.Kelly@act.gov.au](mailto:Briega.Kelly@act.gov.au)>  
**Subject:** DR Package - update

### CABINET

Hi Everyone

Attached is a link to the Discovery Report cab sub container. Please note the following comments:

(i) We need to be consistent about the timeframe for this Agenda. We commenced in Feb 2021 for 2.5 years. Taking COVID into acct, this in my mind takes us to end of 2023. The Agenda should run until the end of 2023 in my view and we need to make this explicit in these docs.

- QN 1: do you agree with this timeframe for the Agenda? **Yes this makes sense.**

(i) Discovery Report at Att A has been restructured to take account of comments from Minister, HoS, AC and CMTEDD comms. I have included comments from Minister for reference

- Donna gave a fresh eyes edit (thank you Donna). She noted that tone seemed reasonable but also noted that the Appendices duplicate much of the content.

- QN 2 – do we want to include the Attachments? How attached are you to the economic situation attachment? We could cut it loose.
- QN 3 – are the descriptions of the measures granular enough? I think there is sufficient detail in the report to give a sense of what we are doing.

# Sch 1 1.6

# Sch 1 1.6

# Sch 1 1.6

Cheers F

Fiona Chesworth | Senior Director  
Better Regulation Taskforce  
Policy and Cabinet Division | 620 71125  
Chief Ministers, Treasury and Economic Development Directorate | ACT Government  
GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)



I acknowledge the traditional custodians of the ACT the Ngunnawal people, and their continuing connection to land and community. I pay my respect to them, and to the Elders both past and present.



## Stuart, Katharine

---

**From:** Engele, Sam  
**Sent:** Monday, 28 February 2022 2:49 PM  
**To:** Watson, Richard  
**Subject:** RE: FOR COMMENT: Better Regulation Taskforce - Work program

CABINET

Thanks Richard.

---

**From:** Watson, Richard <Richard.Watson@act.gov.au>  
**Sent:** Monday, 28 February 2022 1:52 PM  
**To:** Engele, Sam <Sam.Engele@act.gov.au>  
**Subject:** FW: FOR COMMENT: Better Regulation Taskforce - Work program

CABINET

Hello Sam,

We had a look at this and don't think that the Office for International Engagement has a role in any of these initiatives. Feel free to let me know if you have other thoughts.

Hope you are doing well.

Richard

---

**From:** Engele, Sam <[Sam.Engele@act.gov.au](mailto:Sam.Engele@act.gov.au)>  
**Sent:** Monday, 14 February 2022 6:42 PM  
**To:** Pryce, David <[David.Pryce@act.gov.au](mailto:David.Pryce@act.gov.au)>; Konti, Bettina <[Bettina.Konti@act.gov.au](mailto:Bettina.Konti@act.gov.au)>; Snow, Malcolm <[Malcolm.Snow@act.gov.au](mailto:Malcolm.Snow@act.gov.au)>; Walker, IanS <[IanS.Walker@act.gov.au](mailto:IanS.Walker@act.gov.au)>; O'Neill, Carolyn <[Carolyn.O'Neill@act.gov.au](mailto:Carolyn.O'Neill@act.gov.au)>; Bowdery, John <[John.Bowdery@act.gov.au](mailto:John.Bowdery@act.gov.au)>; Ng, Daniel <[Daniel.Ng@act.gov.au](mailto:Daniel.Ng@act.gov.au)>; Arthy, Kareena <[Kareena.Arthy@act.gov.au](mailto:Kareena.Arthy@act.gov.au)>; Kobus, Jonathan <[Jonathan.Kobus@act.gov.au](mailto:Jonathan.Kobus@act.gov.au)>; Miners, Stephen <[Stephen.Miners@act.gov.au](mailto:Stephen.Miners@act.gov.au)>; Hocking, Stuart <[Stuart.Hocking@act.gov.au](mailto:Stuart.Hocking@act.gov.au)>; Salisbury, Kim <[Kim.Salisbury@act.gov.au](mailto:Kim.Salisbury@act.gov.au)>; Smyth, Brendan <[Brendan.Smyth@act.gov.au](mailto:Brendan.Smyth@act.gov.au)>; Perkins, Anita <[Anita.Perkins@act.gov.au](mailto:Anita.Perkins@act.gov.au)>; West, Damian <[Damian.West@act.gov.au](mailto:Damian.West@act.gov.au)>; Snow, Malcolm <[Malcolm.Snow@act.gov.au](mailto:Malcolm.Snow@act.gov.au)>; Holmes, Lisa <[Lisa.Holmes@act.gov.au](mailto:Lisa.Holmes@act.gov.au)>; Croke, Leesa <[Leesa.Croke@act.gov.au](mailto:Leesa.Croke@act.gov.au)>  
**Cc:** Clapham, David <[David.Clapham@act.gov.au](mailto:David.Clapham@act.gov.au)>; Chesworth, Fiona <[Fiona.Chesworth@act.gov.au](mailto:Fiona.Chesworth@act.gov.au)>; Better Regulation Taskforce <[BetterRegulationTaskforce@act.gov.au](mailto:BetterRegulationTaskforce@act.gov.au)>  
**Subject:** FOR COMMENT: Better Regulation Taskforce - Work program

Colleagues

The Better Regulation Taskforce is authoring its report on the Discovery Phase. It will include a forward work program and I wanted to send to you our early thinking on this.

Taking into account what we have heard from our engagements, a jurisdictional analysis and the results of Phase 1 of the Legislation Review, we have collated a comprehensive list of possible reform measures which could be taken forward. As you might expect, the measures range from small 'quick fixes' to some very large sectoral wide initiatives and everything in between.

Where we have been able to identify a unifying idea or theme, we have brought a number of the measures together into reform packages.

- There are six potential reform packages and these are identified in Table A of [Attachment B - Supporting Analysis for Reform Packages](#).
- Tables B and C in [Attachment B](#) then list every single measure we have identified and categorised them as either less complex or more complex respectively. We also note where these single measures could be part of a reform package.

This approach opens the possibility of building a forward work program by selecting one reform package (say, for example, entertainment and night time economy) along with a number of stand-alone measures.

- We have modelled such an approach in [Attachment A - Suggested Work Program for 2022 and Discovery Report Timeline](#).

I ask that you do not share these further outside of key personnel in your agency as we are yet to discuss these with Ministers. The matters will also be subject to Cabinet approval.

We are keen to hear your first impressions and thoughts. We hope to make the draft Discovery Phase report available soon.

If there are any questions or comments, including a fuller description of any of the measures, please reach out to me or [@Clapham, David](#) or any of the team via [@Better Regulation Taskforce](#)

Regards,

**SAM ENGELE**

Coordinator-General for Climate Action  
& Head of the Better Regulation Taskforce

Phone 02 6205 0230 | Mobile [Sch 2.2\(a\)\(ii\)](#)  
Email [Sam.Engele@ACT.gov.au](mailto:Sam.Engele@ACT.gov.au)

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Chief Minister, Treasury and Economic Development Directorate  
Nara Centre, 1 Constitution Av, Canberra  
GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)



## Stuart, Katharine

---

**From:** Pryce, David  
**Sent:** Thursday, 24 February 2022 10:30 AM  
**To:** Clapham, David; Engele, Sam  
**Cc:** AC - Office of the DDG; McKinnon, Margaret; Cubin, Derise; Rynehart, Josh; Springett, Emily  
**Subject:** reg perf work stream DC attempt  
**Attachments:** reg perf work stream DC attempt.docx

OFFICIAL

Hi David,

Thanks again for taking the time to listen to our views and take these on board.

Some quick feedback via tracked changes. I think the wording (as indicated) could be improved here.

Happy to discuss.

David Pryce | Deputy Director-General

Head of Access Canberra

Phone: 02 6205 9898 | Email: [david.pryce@act.gov.au](mailto:david.pryce@act.gov.au)

Access Canberra | Chief Minister Treasury and Economic Development Directorate | ACT Government

GPO Box 158, Canberra City, ACT 2601 | [www.act.gov.au/accessCBR](http://www.act.gov.au/accessCBR)



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## Stuart, Katharine

---

**From:** Clapham, David  
**Sent:** Wednesday, 23 February 2022 3:01 PM  
**To:** Chesworth, Fiona; Rynehart, Josh; Wilkie, Rachel; Cubin, Derise; Springett, Emily; McKinnon, Margaret; Mangeruca, Giuseppe  
**Cc:** Pryce, David; Engele, Sam; Stewart-Moore, Karen  
**Subject:** Regulatory Performance stream - BRT Work Program - updated  
**Attachments:** reg perf work stream DC attempt.docx

OFFICIAL

Afternoon all

Attached is my attempt to rework the 2 year regulatory performance/business experience stream following our conversation yesterday and subsequent discussions with Josh. Missing is the policy/legislation stream and the future program for both streams; we are still working on these. It is the attached that we would seek Cabinet agreement on.

We are meeting with David Polglase this afternoon to understand where plans to reform the AC website align with this plan and how we can better align description of this initiative. Also to ask how the BRT might be able to assist.

Can you please review and provide me with any comments. **In particular I would welcome suggestion of further specific outputs I could include.**

Happy to discuss at any time. The Discovery Report will be circulated in full for comment asap.

Thanks for your continued support.

David

# Better Regulation Taskforce 2 Year Work Program

Policy and Legislation



Business Experience and Regulator Performance

We will manage the stock of existing regulation

**Regulator engagement will provide clear information and tailored support**

**Regulators will clearly communicate regulatory objectives & duties on business**

- Developing information resources, including websites and stand-alone toolkits, that:
  - make clear the regulatory outcomes and the harms we seek to minimise – the value of compliance;
  - explain how we are structured and who to contact;
  - Provide clear guidance on regulatory obligations, requirements and steps to start and run a successful business
  - Support business to quickly find the information they need, and the level of support that suits their circumstances.

**Government will provide tailored support to navigate barriers, requirements and find ways to say 'yes'**

- Introduce a dedicated, proactive business support team to work one-on-one with business to educate and problem solve. This would include working existing or new and emerging businesses to find solutions or enable innovation.
- We will be clear on the harms and risks that set our requirements, remove barriers where we can

**Business will only tell us once**

- The Taskforce will work iteratively to identify opportunities to streamline processes, reduce overlap and duplication for business across ACT Government.

**We will better understand the experiences of business**

- Survey of business sentiment to measure the quantity and quality of interactions of business with government.
- User experience mapping of key business personas
- Pilot a model for human-centred design for new regulation

## Stuart, Katharine

---

**From:** Clapham, David  
**Sent:** Tuesday, 1 March 2022 12:37 PM  
**To:** Saunders, Joe  
**Cc:** Engele, Sam; Better Regulation Taskforce; Chesworth, Fiona  
**Subject:** Summary of AC/ED feedback on BRT

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

### OFFICIAL

Dear Joe

As discussed, I'm writing with a high level summary of the feedback from Access Canberra and ED that led to the different versions of the BRT Work Program graphic you and the Minister considered last week.

As discussed, the changes were made after a number of conversations with AC and ED about how the specific outputs we had identified in our consultation gelled with their experience, priorities and plans for future initiatives.

- In general, you observed that the specific outputs we had identified – such as checklists, fact sheets, infographics – were removed. While Access Canberra recognised the issues relating to lack of clear information and need for better guidance for regulated entities and business that the BRT had identified through the Discovery Phase, there was some hesitation to commit to these specific products.
  - There was a view that checklists don't always best support the achievement of regulatory outcomes or a bespoke, flexible approach to communicating requirements to business.
  - There were concerns about promoting a "tick and flick" approach.
  - The challenges with keeping factsheets up to date were also raised.
  - While these are valuable insights, the BRT considers that there should be a middle ground between producing tailored guidance materials (be it infographics, fact sheets, toolkits or checklists) and maintaining flexibility. Further, our research has shown that there are good models whereby materials not only include information on requirements, but are a valuable tool in helping business and regulated entities to understand the outcomes sought and the value of compliance to them and the community.
- There were concerns around committing to "sandbox" approaches which risked publicly giving business the impression that Access Canberra could "say yes" even if requests were unsafe or prohibited.
  - The preferred approach was to commit to being clear with business on the harms regulators seek to control, the risks that set the requirements, and to work to business to remove barriers where possible – and this is indeed what the OAT has been successful in doing.
    - While we are interested in better embedding this kind of "say yes" culture (we see the concierge initiative as a key way of doing this), we are also keen to test the appetite for a dedicated process to properly trial innovative or new things. This could possibly be through a limited exemption process or other mechanism to manage risks, protect the community, but also explore new ways of doing things.
- Access Canberra usefully provided information on two specific initiatives which closely aligned with our suggested actions, and so some changes were made to incorporate these. These were:
  - The dedicated support team to pick up and embed the work of the COVID support team and OAT to deliver a concierge service. (Although the terminology of "concierge" was not preferred).
  - A proposal to overhaul Access Canberra websites. This aligns with our desire to see web pages improved to provide business-tailored entry and information, as well as existing commitments to create a "how to start a business" website.

Happy to discuss



David

**David Clapham** | Executive Branch Manager

Better Regulation Taskforce | Economic and Regional Policy Branch | **Policy & Cabinet Division**

☎ 02 6205 7261 | **Chief Minister, Treasury & Economic Development Directorate** | ACT Government

Level 5, 220 London Circuit | GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)

**Stuart, Katharine**

---

**From:** Engele, Sam  
**Sent:** Thursday, 10 March 2022 9:12 PM  
**To:** Power, Leanne  
**Cc:** Kalleske, Sarah  
**Subject:** Weekly meeting - discovery report  
**Attachments:** Weekly meeting - discovery report.docx

**OFFICIAL: Sensitive**

Leanne, Could you include the attached document to the pack of papers for the CM meeting.

Thanks.

Sam



## Update on the Better Regulation Taskforce – Discovery report

- The Better Regulation Taskforce has concluded its Discovery Phase and has prepared a report for consideration by government **Sch 1 1.6**
- The Report reflects the results of a significant program of consultation with business and other stakeholders to uncover the pain points for business when dealing with government and complying with existing regulatory frameworks.
- The Report sets out a program of reform to be undertaken over 2022-2023.
- The reforms fall into two broad categories:
  - Those relating to existing policy and legislative frameworks. The main items here are:
    - a review of procurement from an SME perspective. It will link in with the review being undertaken by Treasury on procurement legislation and regulations
    - a review of the night-time/entertainment economy. Again this will link in with work already being undertaken across ACT government – particularly the entertainment precinct commitment under the PAGA
  - The second category relates to business experience and Regulator practice
    - The measures here are focused on how we can help simplify business to government interactions through clearer information, removal of duplication and over-lap, one on one support.
    - Its also includes measures which will provide us with a baseline to measure business sentiment and regulatory burden.
- It is intended that the report will be made public following Cabinet endorsement.

Action Officer: Sam Engele

Date: 10 March 2022

**Stuart, Katharine**

---

**From:** Clapham, David  
**Sent:** Thursday, 17 February 2022 4:19 PM  
**To:** Argy, Nicholas; Saunders, Joe  
**Cc:** Chesworth, Fiona; Engele, Sam; Wilkie, Rachel; Better Regulation Taskforce  
**Subject:** Workstreams BRT updated  
**Attachments:** Workstreams BRT.docx

OFFICIAL: Sensitive

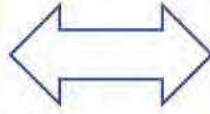
Dear Nick

As discussed – hopefully this makes things clearer  
Best

David

# Better Regulation Taskforce Work Program

## Policy and Legislation



## Business Experience and Regulator Performance

### We will put in place a best practice procurement framework for SMEs

- Review of procurement legislation, policies and administrative with an SME lens

### We will enhance labour mobility

- Ready the ACT for the commencement of automatic mutual recognition of occupational licensing.

### We will manage the stock of existing regulation

#### We will make improvements to existing frameworks

- Employment agents licensing
- Modernise the execution of statutory declarations and deeds
- Model Rules for Incorporated Associations
- Removal of references to outmoded payment methods
- Responsible service of alcohol improvements

### We will undertake industry-focussed review and reform

- review the legislative, regulatory and administrative arrangements for the nighttime/entertainment economy

### We will better understand the experiences of business

- Survey of business sentiment to measure the quantity and quality of interactions of business with government.
- User experience mapping of key business personas
- Pilot a model for human centred design for new regulation

### Business will know where to get help

- Infographic for business 'Who to contact about What?' in Access Canberra

### Information for business will be clearer

- Factsheets
- Compliance checklists
- Update existing web resources

### Business will only tell us once

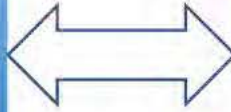
- Overlap and duplication for business across ACT Government

### We will say 'yes' whenever we can

- 'sandbox' pilot to trial new regulatory approaches

# Potential Future Reforms

## Policy and Legislation



## Business Experience and Regulator Performance

### We will manage the stock of existing regulation

- Review of ACT statute book to ensure technology neutral legislation
- Review of ACT / NSW cross border alignment in legislation and associated regulatory practice
- On Demand Transport Industry
- Security of Payments laws
- Motor Vehicle Repairers
- stewardship role for regulators and Ministers to actively manage the regulatory framework
- Better Regulation Best Practice Framework

### We will manage the flow of new regulation

- Better Regulation Best Practice Framework
- measure for assessing cumulative burden on business
- Pilot NZ Rules as Code approach to regulation

Events approvals?

Flexibility in licences renewal periods

How to start, run and grow a business web page

Insurance

### We will better understand the experiences of business

- measure of business experience with government which can be assessed over time

### We will be transparent and consistent

- statutory process for assessing performance of regulators
- standard suite of regulatory powers
- statutory obligation to issue factsheets and guidelines

### Information for business will be clearer

- Online business licence finder
- Single online portal for business to conduct all their business with government

### Business will know where to get help

- Concierge/help desk for small business to navigate compliance obligations across ACT government

### Approvals will be faster

- Fast lane for small business approvals

### Business will only tell us once

- Overlap and duplication for business across ACT and Cth Government
- Creation of digital identity for business



**ACT**  
Government

# Discovery Phase Report

## Better Regulation Taskforce

April 2022

Chief Minister, Treasury and Economic Development Directorate

Better Regulation Taskforce

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## INTRODUCTION

The Better Regulation Taskforce will assist in driving Canberra's recovery from the COVID-19 pandemic and will support long term economic growth by putting in place best practice regulatory settings.

The ACT is one of the smallest and yet one of the strongest economies in Australia. The COVID-19 pandemic has had a profound effect on every economy around the world and while robust, the ACT economy has not been immune to these new challenges (Appendix A). The pandemic has seen the introduction of new regulations and has exacerbated the burden of some existing, yet outdated, regulatory frameworks. It has highlighted the need for more productive and responsive relationships between government and business in order to improve regulation and reduce burden. The continually evolving landscape of COVID-19 requires flexible government responses and fit-for-purpose regulation.

The Better Regulation Taskforce (the Taskforce) was established as part of the ACT Government's response to the COVID-19 pandemic. Within this context, the Taskforce has examined and applied lessons learned during the COVID-19 response, such as maintaining clear and open communication; prioritising adaptability and rapid action; and engaging with risk to achieve the best outcomes for business in the ACT

The Taskforce's focus is to make it easier to do business in the ACT. The Taskforce will support business to start, run and grow by putting in place better regulatory settings, and simplifying interactions between business and government.

This is a three-phase program of whole of government work over 2.5 years led by the Taskforce. This includes a Discovery Phase, Analysis and Recommendations Phase, and Implementation Phase to be conducted and implemented concurrently, where possible.

Across the three phases of the better regulation work program, the ACT Government will consult extensively with stakeholders to explore, validate, test and revise ideas and opportunities for reforms to regulation. Due to the changing context and conditions of the COVID-19 pandemic, the approach to delivery of this program has, and will continue to be, adaptive and sensitive to the changing context across these phases.

This report reflects on the Discovery Phase. It presents the Taskforce's discoveries and the ACT Government's Better Regulation Agenda to make it easier to start, run and grow a business in the ACT.

## WHAT IS REGULATION?

"[business] can find it difficult to distinguish the jurisdictional source of regulatory problems...[and] often it is the accumulation of regulation that is the main problem".<sup>1</sup>

Regulation encompasses instruments made by governments that place legally enforceable obligations on business and community. This is the "black letter law", including legislative acts, regulations, and instruments. The term can also include supporting documents, such as codes of practice, guidelines, advice, and notices. What we heard during our engagement was that business does not necessarily differentiate between statute, rules or guidance and the totality of all dealings they have with government regulation to

Commented [CF1]: Ministers comments: General

Language

- oReview tone, particularly around what Government needs to do, and how some behaviours are perceived

Commented [CF2R1]: I have included some feedback from comms but need to also reflect in Appendix. Donna with her literacy skills could also review for us re tone

Commented [CF3]: Minister comment: "Business landscape chapter

- Can probably all be moved to an appendix with some high level comments that can sit under Purpose

Commented [CF4R3]: This has been done. This para is the reflection of that

Commented [CF5]: This para was moved to reflect the Minister's comment that this be shifted out of "managing the cumulative burden of regulation"

Commented [CF6]: Minister's comments:

- Should state somewhere early that the phases are not necessarily distinct ie there is overlap between Phase 1 and 2

Commented [CF7R6]: This sentence addresses that requirement

Commented [CF8]: Minister's comment: Managing the cumulative burden of regulation

- Change this heading/delete heading
- Shorten this
- Final paragraph can probably be put under Purpose

Commented [CF9R8]: Done

<sup>1</sup> Productivity Commission 2011, Identifying and Evaluating Regulation Reforms, Research Report, Canberra, p.xvii.

carry on their business. 'Regulation' in this sense goes further and includes the ways that Government communicates with business as well as regulator culture and practice.

Time and money spent by business on regulatory compliance is known as the 'burden of regulation'. If the burden is too great, it may divert business away from productive activities, stifling their capacity to innovate, be entrepreneurial and respond creatively and quickly to market opportunities or threats."<sup>2</sup>

However, the burden of regulation cannot be properly understood or addressed without recognising that regulation is an asset not only to government but also to citizens and business:

"... demands for regulation come from citizens affected by unfair trading, monopolies, externalities and market failures... and from businesses who gain from regulation in the form of market protection, subsidies, and title protection—those who want regulation to create the certainty they need to go about their business decisions."

When the value of regulation is understood, it becomes clear that regulatory reform is not reducing regulation, it is about finding solutions to make regulation better.

For decades, governments have endeavoured to strike the appropriate balance of achieving the legitimate aims of regulation whilst minimising unnecessary burden by refining how, when, and why it regulates. Many deregulation agendas and strategies have been deployed by governments responding to calls to rationalise the growing volume of regulation by simply reducing quantity. The success rate of such agendas has been poor.

Making regulation better is a complex task. It starts with an understanding and acknowledgement that regulation is warranted and needed and that not all regulation is a burden. It requires deep thinking about how to determine when regulation is no longer fit for purpose and the quantitative and qualitative measures we can use to assess when this point is reached. It involves the development of a framework for regulatory quality so that efforts to improve regulation are co-ordinated, enduring and sustainable over time.

The ACT Government has long been committed to better regulation and has implemented a range of measures to improve regulatory quality (Box 3 – Appendix G). Access Canberra was established to provide a one-stop shop for ACT Government customer and regulatory services and to make access for the community to government services easier, simpler and faster. Since its inception, Access Canberra has consistently advocated for principle-based regulation and a risk-based approach to ensure that its compliance responses and actions appropriately respond to the level of risk and harm.

Access Canberra has continually reviewed processes to ensure best practice. The Event and Business Coordination (EBC) team has seen the removal of duplication and overlap of government processes across 17 different entities, issuing nearly 30 approvals through the application of a 'tell us once' principle. The EBC has provided business with one-on-one support, saving company's valuable time and resources that otherwise would have been diverted to navigating the regulatory framework.

Building on this strong history of regulatory reform and the findings of the Discovery Phase, the Better Regulation Agenda sets out clearly identified deliverables to achieve the right balance of regulatory outcome and burden. The Agenda removes unnecessary and unwarranted burdens while supporting regulator practice and performance for the benefit of not just business, but also the ACT community.

**Commented [CF10]:** Minister's comments: What is regulation?  
-Include stronger elements about the benefits of regulation

**Commented [CF11R10]:** This section is intended to address this. Need to footnote quote

<sup>2</sup> NSW Government Treasury, 2019. *NSW Government Guide to Better Regulation*. Sydney, p 5.

## THE DISCOVERY PHASE

The Taskforce has undertaken a multifaceted approach to understand the changes that could be made to achieve best practice regulation and improve the business user experience when interacting with the ACT Government. The Taskforce's Discovery Phase approach and methodology are detailed at [Appendix B](#).

During the Discovery Phase, the Taskforce collaborated directly with businesses to provide the opportunity to contribute ideas and solutions that would best support their success. These ideas build on the already embedded 'how can we help?' approach of government agencies and regulators, with the view of improving the experience for everyone. A catalogue of what we heard from business is at [Appendix C](#).

The Taskforce also commissioned a wide-ranging Legislative Review to identify potential projects for reform. The potential projects developed through the Legislative Review have been considered alongside the other inputs into the Discovery Phase and have informed the Better Regulation Agenda. A summary of the findings of the Legislative Review is provided at [Appendix D](#).

Finally, the Taskforce has considered regulatory reform approaches elsewhere in Australia and abroad. Key understandings from a jurisdictional analysis to inform a regulatory quality framework are provided at [Appendix E](#).

The issues raised by business with the Taskforce during the Discovery Phase can be broadly categorised as issues covering:

- existing policy and legislative frameworks; and
- the business experience when interacting with government, including regulator capability and support.

For each emerging issue, we've summarised the perspectives and ideas we heard from business. We've also linked to relevant projects identified through the Legislative Review and we've noted relevant learnings from other jurisdictions, including the Commonwealth Deregulation Agenda ([Appendix F](#)) and regulatory quality framework fundamentals ([Appendix G](#)).

## FINDINGS – POLICY AND LEGISLATIVE FRAMEWORKS

### SME Procurement

During our stakeholder consultation, we heard that business, particularly small and medium enterprises (SMEs), expressed a strong desire for assistance in understanding government procurement requirements, as well as support when bidding for government procurement opportunities.

We heard that the ACT Government procurement system can be confusing for business. Government procurement has its own language, processes and requirements. This can make it difficult for business to recognise the opportunities available, and even when they do, to understand how to take up those opportunities. Confusion and a lack of clarity extends to the operation of panels, (business is unsure about how and when they are refreshed), as well as the processes around the ability to make unsolicited bids.

SMEs desire tailored information and guidance to support them to bid for ACT Government contracts. Government could assist by providing clear pathways to follow which make it easier for a business to check their eligibility to bid for ACT Government contracts.

#### Commented [CF12]: Minister's comment:

- STREAM 1: Policy and Legislation:
  - oTheme 1: Procurement
    - \*What we heard
    - \*Legislative review
    - \*Environmental scan
  - oTheme 2: Night time economy
    - \*What we heard
    - \*Legislative review
    - \*Environmental scan
  - oTheme 3:
    - oAnd so on (acknowledging that it may be the case that not every theme has substantive input from one of the three work sources).
- STREAM 2: Business experience and regulator performance:
  - oTheme 1: Enhance business understanding of government and government understanding of business
    - \*What we heard
    - \*Legislative review
    - \*Environmental scan
  - oTheme 2: Simplify government-business interactions [I am not wedded to any of these as themes, using as example only]
    - \*What we heard
    - \*Legislative review
    - \*Environmental scan

Business suggested a central place where SMEs can go to access public-facing procurement information and supports. This could include toolkits and guidelines (in plain English), 'how to' videos, tables which summarise all existing panels and their refresh dates, and an SME supplier list (pre-vetted against the procurement values).

Women-owned and -led business and Aboriginal and Torres-Strait Islander-owned and -led business both identified that more could be done to increase their participation in ACT Government procurement processes, including by challenging perceived bias.

While acknowledging the importance of the Government procurement values and social procurement, business noted that it can be difficult to understand how the time it takes to respond to these criteria in procurement documentation is aligned with the weighting assigned to it in assessing procurement responses. There could be greater clarity given about Territory objectives for small business, and how business can reach those objectives. A common piece of feedback was that if Government is seeking to achieve targets or quotas, then these should be shared with industry. For example, stakeholders suggested using quotas for female representation through procurement processes and contracting, as this is more likely to achieve intended outcomes (i.e., an increase in female representation in certain industries).

Stakeholders identified liability and insurance provisions in ACT Government contracts as a potential barrier for SMEs. They suggested that the contract liability and insurance provisions be reviewed and reformed, including those clauses relating to uncapped liability, consequential loss and proportionate liability.

Business also conveyed that the existing procurement framework should be reviewed on a regular basis. For example, business considers that existing procurement thresholds lacked currency and that a review of these thresholds could align the ACT with other jurisdictions. A best practice framework should also communicate the importance of government procurement directions and/or policy objectives to industry and appropriately weight them and provide greater certainty to industry through forecasting of procurement opportunities. This is particularly the case in relation to the ACT's future infrastructure spends.

The ACT Government has in place the *Canberra Region Local Industry Procurement Policy (LIPP)* which sets out the requirements for Territory entities to consider local capability and capacity and economic benefits for the Canberra Region when determining the best available procurement outcome. Business told us that the implementation of this policy was not always clear to see and so there may be an opportunity to consider if this framework is achieving the Government's objectives.

Establishing a procurement framework that is fit for use by SMEs is inextricably linked with an increase in ACT Government knowledge and capability in procurement. Business noted that an increased level of capability and skills across government will assist SMEs as potential suppliers because it will result in:

- improved level and quality of feedback provided by ACTPS procurement officers to SMEs which businesses need to learn from their mistakes. Where feedback is provided, it often provides little utility to help business improve their bids in the future;
- consistency in the approach to procurement across Territory entities;
- a greater level of comfort for the people running procurement to confidently communicate and answer respondent/tenderer questions, whilst also complying with probity requirements; and
- a better understanding of risk and how to appropriately manage it depending on the circumstances of the procurement.

### Alignment with Legislative Review

The Legislative Review identified a project to standardise procurement processes across ACT government (Project 2 – [Appendix D](#)).

This project would not involve the removal of regulatory requirements imposed on business. However, the measures proposed are likely have a direct positive impact on smaller businesses in the ACT.

The Legislative Review examined the potential for a legislative framework to apply standard procurement processes for Territory entities including the following specific measures:

- appropriate risk assessment and management practices and standards (including insurance requirements for contractors);
- obligations to provide information/feedback concerning tenders; and
- a review of policy regarding local content in procurement decisions (noting the ability to impose local preference policies might be found to be limited under law or by various intergovernmental agreements or other policy arrangements to which the ACT is a party.)

### Alignment with Jurisdictional Analysis

Many jurisdictions have publicly committed to a set of best practice principles for regulation. These principles traditionally include a principle relating to managing the stock of regulation<sup>3</sup>. These principles highlight the importance of a periodic review of existing regulation to ensure it remains efficient and effective.

### Night-time/entertainment economy

As demonstrated by the economic indicators, the ACT's night-time economy and entertainment sectors were particularly adversely affected throughout the COVID-19 pandemic and had to manage public health restrictions in 2021, while most of Canberra had returned to low or zero restrictions.

Business raised the need for continuous review and improvement to address regulatory issues faced by the night-time economy and entertainment sectors, with particular focus on noise, outdoor dining and liquor licensing.

The Taskforce's 'night-time economy' workshop highlighted the following issues held by business concerning the current regulatory framework:

- a lack of a coordinated approach to approvals and regulations around operating a business in this sector;
- a lack of adequate proportionality in it's the impact on business operations of differing scales, particularly in liquor licensing costs and structure of fee hierarchies;
- noise management, especially the decibel thresholds and framework for environmental noise limits, the lack of 'order of occupancy' considerations in authorisations, and the cost to business in developing compliant noise management plans;
- policy direction, especially the lack of an integrated policy setting out the vision for a vibrant entertainment/night-time economy; and
- regulatory cooperation, particularly in relation to the relationship with compliance officers, the perceived lack of clear information on compliance requirements and inspections, and a lack of flexibility to be able to consider the reduced risk posed by highly compliant and 'safe' businesses

Commented [CF13]: Needs softening

### Alignment with Legislative Review

The Legislative Review identified a project to review the full legislative and regulatory arrangements for the entertainment economy, which extends across the industry sectors of accommodation and food services and arts and recreation services (Project 1 - [Appendix D](#)).

<sup>3</sup> See for example the COAG agreed Principles of Best Practice Regulation and the New South Wales Better Regulation Principles at [Appendix E](#).

This project was identified through consultation which raised numerous and ongoing barriers faced by the sectors of accommodation and food services, and arts and recreation services, particularly throughout the COVID-19 pandemic.

The Legislative Review noted that there are many small businesses in the ACT seeking to operate in these sectors that have expressed concerns regarding the lack of a coordinated approach to approvals and regulations around operating their business. The hospitality and entertainment sectors have great potential to make a significant contribution to the ACT economy, the jobs market and the way of life of Canberrans generally.

A review of the entertainment economy **would** contemplate a fundamental re-organisation of regulatory arrangements affecting the 'entertainment economy'. The review would examine legislation and regulatory practice in areas including land use, food and beverage regulation, and noise control. It should also consider appropriate alternatives to arrangements currently requiring prior approval.

### Alignment with Jurisdictional Analysis

Many jurisdictions have publicly committed to a set of best practice principles for regulation. These principles usually always include principles to ensure that the objectives of government action when regulating are clear and that the impact of government action should be properly understood, by considering the costs and benefits (using all available data) of a range of options, including non-regulatory options<sup>4</sup>. These principles highlight the importance of a holistic approach to regulatory reform.

## Occupational Mobility

We heard that having access to skilled staff was a common issue raised by business, particularly in the context of COVID-19.

We heard that business wants to ensure that there is reciprocal recognition of licences to support occupational mobility from interstate. This includes a broad program of Mutual Recognition being undertaken at a national level, including the removal of barriers to the recognition of interstate responsible service of alcohol certificates.

We also heard that existing regulatory frameworks around training for responsible service of alcohol may be producing unintended barriers to interstate recognition of these qualifications.

Further messages from business about accessing skilled staff is provided at [Appendix C](#).

### Alignment with Jurisdictional Analysis

The Automatic Mutual Recognition of Occupational Registrations (AMR) scheme forms part of the Commonwealth's Deregulation Agenda ([Appendix F](#)). AMR removes the need for people to apply and pay for an additional registration or licence when working in another state or territory, saving them time and money.

AMR came into effect on 1 July 2021. It applied automatically in the ACT from that date. As a transitional arrangement, most of our occupational licences are temporarily exempt from AMR until 1 July 2022. The Taskforce is working with ACT government directorates and agencies to introduce AMR across a range of ACT occupational licences and registrations.

## Cross border alignment

From our engagements, we heard that business believes that our regulatory approach could be improved if the ACT strived to have identical or similar laws to those in NSW, unless there is good reason not to do so.

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<sup>4</sup> See for example the COAG agreed Principles of Best Practice Regulation and the New South Wales Better Regulation Principles at [Appendix E](#).

Business also suggested the ACT compare and contrast its performance to that of nearby regional NSW. The ACT should at least match, or better, the operating environment for business in NSW.

### Alignment with Legislative Review

The Legislative Review proposed a general review of ACT and NSW business regulation legislation to maximise cross-border alignment with NSW, with a focus on legislation having significant impact on small business (Project 4 – [Appendix D](#)).

This project is highly relevant for the ACT as a small jurisdiction surrounded by regional NSW. A large number of businesses, including many small businesses, operate both within the ACT and surrounding areas of NSW. Compliance costs, due to a lack of regulatory alignment, impact disproportionately on small business. A review of regulation and analysing opportunities for regulatory alignment with NSW would clearly make it easier to do business across the ACT and NSW.

The Legislation Review recommended that this review focus on legislation with particular impacts for small business, including subordinate legislation and other instruments made under the Acts listed. Other legislation could be identified during further consultation.

A full review of the alignment of ACT legislation with that of NSW would require detailed examination of legislation and regulatory practice across both jurisdictions. This would require consideration of a wide range of policy questions where divergences are identified.

### Supporting Digital Technology

Business is supportive of regulatory frameworks that do not act as barrier to the integration of digital technology to simplify business to government interactions.

The COVID-19 pandemic has fast-tracked the digitisation of many aspects of our economy. More than ever, individuals and businesses are relying on digital platforms to do business. Regulation that is outcomes-focused and technology neutral can allow businesses to freely adopt whatever technology is most appropriate to achieve the outcomes. Some examples that we heard of Territory legislation that is not technology neutral include:

- references in legislation to cheques as a method of payment;
- existing methods of executing formal documents; and
- model rules for incorporated associations.

The adoption of machine-readable law/rules as code was also raised by business during the Discovery Phase. Where regulation is machine readable, industry and government can embed digital rules directly into their IT systems to streamline compliance and automate any changes in the future. Underpinning a 'rules as code' approach is a move away from regulation that contains decisions made by regulators based on subjective, rather than objective, criteria. Business has stated that this provides certainty and clarity.

### Alignment with Legislative Review

The Legislative Review identified a project to review legislation to remove any obligations requiring use of a particular technology, including paper-based documents (Project 3 – [Appendix D](#)). This project would focus on a broad review to ensure updates to legislative vernacular to remove outdated technologies.

Although reforms of this kind have been undertaken in the ACT over recent years, there are benefits from a further review of legislation, statutory instruments and administrative practice in this area. The objective is to enable full use of modern digital technology appropriate to the circumstances. Reviews of these kind are currently underway in other jurisdictions, including the Commonwealth.

The removal of requirements to provide information in a specific manner will minimise costs to business. Scrutiny of such legislation and other regulatory practices also provides an opportunity to identify and

remove requirements that are unnecessary or overly prescriptive. This project would review legislation and regulatory practices which require, or presume, communications by means of a particular technology, such as a paper-based notice or a meeting requiring personal attendance. This includes arrangements currently suspended because of the COVID-19 pandemic.

#### Alignment with Jurisdictional Scan

The New Zealand Government has implemented a range of initiatives aimed at avoiding burdens for small business. The 'Better Rules Better Outcomes' initiative is aimed at simplifying existing regulation and employs a methodology to assist people and businesses to understand, benefit from and comply with legislation in an automated way. The Better Rules approach allows for legislation to be developed in software code, as well as written language, from the start. It avoids the need for later translation of legislation into software language, avoiding the risk of incorrect interpretation. The Better Rules methodology will be particularly helpful for activities like calculating eligibility criteria for a benefit, and financial reporting obligations. It is the human centred design (HCD) approach which is embedded in a 'rules as code' approach which is valuable and capable of delivering significant benefits to business.

### Business Licences and Renewals

During our consultation, business conveyed that licence renewal is a task that can take up significant time and managerial effort. Business would like greater flexibility by being given the option for multi-year regimes, as well as annual renewals.

We also heard that some existing licensing frameworks may no longer be fit for purpose. There would be benefit in reviewing specific frameworks to ensure that the regulation remains fit for purposes, such as the existing framework for employment agents licensing.

Business raised other focus areas which require further analysis, including consideration of a potential licensing framework for individuals as motor vehicle repairers.

#### Alignment with Legislative Review

The Legislative Review did not identify a specific project on licensing and renewals. However, as part of the general recommendations of the Legislative Review, it is noted that it will be appropriate to consider whether an activity which currently requires prior approval from a regulatory authority could be managed in a different way.

#### Alignment with Jurisdictional Scan

In NSW, a similar arrangement is often referred to as 'negative licensing', particularly where the sanctions include a power to prohibit a person from providing the service at all. In 2021, the NSW Productivity Commission released the *Productivity Commission White Paper*<sup>5</sup> which recommended whole-of-system reforms, including adopting a negative licensing approach for low-risk licenses and activities.

### Reduce Regulatory Overlap

During our engagements, we heard that business feel it is inefficient when they are required to provide the same information to different entities. Regulatory overlaps may result from either requirements arising under legislation, or by reason of regulatory practice (routine requests for information, standard forms, etc). Business perceptions about overlap could also equally be discussed as part of the findings for 'Business Experience and Regulator Performance' outlined below. They have been summarised here to avoid repetition.

Business is seeking a government approach where it adopts a 'tell us once' principle so that business must only submit similar information to ACT regulators once, where appropriate. Examples provided by business

<sup>5</sup> NSW Government, 2021. *Productivity Commission White Paper - Rebooting the Economy*. Sydney.



included the provision of information about changes or updates to board/committee members and the repeated provision of the same information to different ACT entities during the pre-qualification and procurement processes for construction.

This principle could also be adopted for other information requirements relating to licensing (for example fit and proper person test).

### Alignment with Legislative Review

The Legislative Review identified a project for a review of regulator/regulation overlap and duplication to reduce touchpoints, with a focus on legislation having significant impact on small business (Project 5 – [Appendix D](#)).

Businesses, both in the ACT and across Australia, have expressed concern about regulatory overlap and duplication that has significant financial and time cost impacts. Often this experience can involve the need to deal with different regulations and different regulators for the same, or a similar, activity. Stakeholders seek simplified business-to-government interactions and a ‘tell us once’ approach.

A review would identify areas of overlap or duplication which could be streamlined to make processes simpler and more transparent. This project aligns with Commonwealth government objectives to streamline processes and eliminate duplication.

This review would involve further consultation with business to identify any other areas where regulatory overlap may exist and where its removal would have practical benefits for business.

The Legislative Review recommended that this review be targeted initially at least to the legislation with small business impacts and any other reviews relating to licensing duplication currently in progress or under consideration by ACT directorates and agencies.

### Alignment with Jurisdictional Analysis

This issue aligns with the Commonwealth Deregulation Agenda ([Appendix F](#)) to reduce unnecessary compliance costs to business when meeting ‘overlapping’ regulatory obligations between different agencies or governments. The Commonwealth has developed a workplan of ten practical projects to provide, wherever possible, information on regulatory experience across the Australian economy.

This issue also aligns with Commonwealth Government objectives to implement a stewardship approach to streamline processes and eliminate duplication.

Regulatory technology (RegTech) is often touted as a solution to ‘tell us once’ problems. New Zealand has invested in a comprehensive RegTech solution which assists in alleviating and remediating regulatory overlap. Business Connect<sup>6</sup> is a digital service platform which enables businesses to:

- access and manage their business information from one place;
- use the data government already holds about them – their New Zealand Business Number (NZBN) – to pre-populate the information they’re most often asked to share;
- re-use the information they’ve previously provided to government;
- connect digitally across both local and central government; and
- more easily meet their compliance obligations.

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<sup>6</sup> <https://businessconnect.govt.nz/>

# FINDINGS – BUSINESS EXPERIENCE AND REGULATOR PERFORMANCE

## Simplification of Government-to-Business interactions

Businesses were asked to share their experience of interactions with government and the ease of doing business in the ACT. Improvements were suggested for some processes and approvals associated with running a business or holding a major event in the ACT. Ideas were also suggested for potential innovation and simplification for business and government interactions.

We heard that some approval processes can be difficult and drawn out. Business is looking for government to provide updates on the progress after the lodgement of an application. Processes and approvals would be supported by improving processing times and communications on the progress of applications, applying a 'yes' first regulatory culture and explaining 'how' stakeholders can do or achieve an outcome. Collaboration and feedback would be supported between those working on the ground, directorates and agencies with the policy responsibility and regulated entities to devise mutual improvements to processes.

The Tell us Once Principle was perceived as significant action that government could pursue to simplify government to business interactions. This is explored in further 'Reducing Regulatory Overlap.'

Similarly, the requirements for licence renewals and the duration of business licences were also seen by business as an imposition. This is explored further in 'Business Licences and Renewals.'

### Alignment with Jurisdictional Scan

The Productivity Commission has recommended that Ministers be empowered to suspend certain regulations where an emerging business model is not compatible with an existing regulatory framework. Under the banner of 'Say Yes', regulators can take a more proactive approach and work with innovative businesses to test and closely monitor new models in a live environment where regulatory requirements might be lowered. Importantly, the sandbox concept might encompass innovative regulatory practices, rather than suspending or exempting requirements under law.

The recently released *Regulator Performance Guide* by the Commonwealth Government includes a principle of regulator best practice on regulator engagement and collaboration. The Guide notes that in practical terms, demonstrating collaboration and engagement means regulators 'implement innovative approaches in considering regulatory or policy issues such as 'regulatory sandboxes''.

## Small business information and communications

Small business operators are diverse, requiring varied communication needs and engagement preferences. Through our engagements, we have heard business has limited time and resources to seek out relevant government information. Providing information that is targeted, accessible and easy to read is a simple but effective measure to assist business. Business has suggested that government could:

- ensure legislation, policy, procedures and fact sheets are written in plain language;
- improve factsheets and checklists to support business understanding and compliance, as well as preparedness for inspections;
- provide simple, accessible training to support compliance; and
- clarify the ACT's regulators and Ministerial portfolio responsibilities and 'who does what', so business knows who to speak to about specific issues.

Most prefer business-specific communication channels over general channels, and there is a strong preference for digital information over hard copy materials.

**Commented [CF14]:** Minister's comments:

- STREAM 2: Business experience and regulator performance:
  - oTheme 1: Enhance business understanding of government and government understanding of business
    - \*What we heard
    - \*Legislative review
    - \*Environmental scan
  - oTheme 2: Simplify government-business interactions [I am not wedded to any of these as themes, using as example only]
    - \*What we heard
    - \*Legislative review
    - \*Environmental scan
  - oAnd so on. There will be fewer – even as few as 2 or 3 – themes here I suspect, as more things will come under fewer headings. For some of the themes, nothing would have been thrown up in the legislative review, for example.

**Commented [CF15R14]:** We have three themes now but I feel that simplification of government to business interactions could be split across the other two?

**Commented [CF16]:** footnote

Business has different information needs depending on what stage of the business life cycle they are in. There is a need for information and advice at key growth stages as businesses develop and take on new responsibilities such as hiring staff or embracing more sophisticated management approaches.

Website information is valued by business where that information is clear, easy to read and use, and regularly updated for currency (including accurate links). From a RegTech perspective, business would like to be able to access information across a range of digital devices, including mobile phones and other personal digital devices.

While valuing the flexibility of being able to access targeted and current online information, another common sentiment across business was the need to talk to an individual within government. Essentially, business is looking for reliable and accessible points of contact within government to troubleshoot queries and difficulties with subject matter experts.

Business suggested various methods (physical and virtual) to provide targeted information and advice to support them in starting, running, and growing a business in the ACT. These included:

- an easy to access business hub to better connect business with government, including getting information on available business support, i.e. rebates and grants with industry-specific support; and
- a business concierge service which provides a dedicated agent who can answer questions about what services and supports are available to business, and how to access them.

Business would also like advance warning about regulatory changes likely to impact on business costs, trading hours or employment practices in order to provide sufficient time to allow for the necessary changes to be made to operations. Additionally, the communications and engagement approach should ensure that small business advisors (e.g., accountants, legal advisors) and peak bodies are included as key audience groups as they play an active role in filtering and nuancing information for their small business clients.

### Alignment with Jurisdictional Scan

Governments commonly establish on-line resources for business to support them at all stages of their development. The scope of on-line services varies but should include:

- Advice for business on how to start, run and grown a business.
- Links to other programs of support for business.
- Access to specialist business advice.
- Educational material and templates for use by business.
- Concierge/one-on-one business engagement.

The Western Australian Small Business Development Corporation is a state government agency that provides advice and low-cost services to small business owners in Western Australia. Among a wide range of services and business advice, the hub also includes a business licence finder. The finder produces a list of core and related licences and approvals, including Commonwealth requirements and relevant codes of practice that might apply. Users can conduct a search based on business type or can search for information on specific licences.

## Regulator Practice (clarity, capability, culture & continuous improvement) OR (understanding business)

Engagement with business has shown where some government approaches to regulation can be improved to enhance clarity, capability, culture, and employing a continuous improvement approach

There is a perception that government could do more to better understand business.

Commented [CF17]: looking to broaden this away from Access because some of the issues are policy not regulator?

Business suggested that government considers the impact of regulation on business, starting with the gathering of data on business impacts by:

- regularly measuring the burden of regulation on business both actual and perceived through annual or bi-annual surveys; and
- ensuring that the regulation is justified through cost-benefit analysis.

Through our engagements we heard that business prefer to speak with people who have lived experience with running a business and who understand the intricacies and challenges. A number of suggestions were put forward by business to improve business literacy in the government including:

- encouraging government to actively recruit public service candidates with a former business or business-enabling background; and
- educating regulators to understand the experience of the business community and help support productive dialogues, possibly through professional placements within industry associations.

Aligned with the idea of 'better understanding business', we heard that business strongly supports using co-design processes to bring business stakeholders into earlier parts of the regulatory design stage.

In designing regulation, business called for the ACT to lead the way by applying a 'think small first approach' to regulation, wherein laws are written first and foremost for small business, considering their ability to apply. If greater or high standard of compliance are expected by larger firms, then this should be an explicit addition to the law. When action is taken by government to enforce regulation, business would like regulators take the time to understand the perspective of regulated entities (i.e. 'walking in the shoes' of business).

There is also the perception that government could do more to help business understand what government requires of business and to consider how compliance can be made more straightforward for business.

This is particularly the case where business must engage with multiple regulatory agencies, government and regulators. Government can alleviate the burden of compliance on business through:

- ensuring appropriate co-operation and coordination, (for example coordinating inspections and where possible, holding them at off-peak times); and
- investing in, and using, digital technology (RegTech) to ease interactions with government agencies.

There is little doubt a digital account for business could provide significant benefits to business to complete all their interactions with government in one place. A digital account for business is strongly aligned with a 'Tell Us Once' principle which is discussed further at 'Reducing Regulatory Overlap.'

Commented [CF18]: David Colussi to provide text on the government's long term aims for business digital account.

Regulatory compliance could be more straightforward for business through an online portal that allows business to:

- quickly understand which regulations apply to them;
- obtain clarity on what is required of them;
- access educational material on how they can fulfil their requirements;
- obtain advice and guidance for business at various stages on the business lifecycle would assist in making; and
- provides linkages to other forms of business support across ACT government, including grants and procurement.

Making compliance more straightforward for business is integrally linked with the discussion in this report regarding 'Small business information and communications.'

### Alignment with Legislative Review

The Legislative Review proposed a project to introduce legislation to improve regulator performance (Project 6 – [Appendix D](#)).

The objectives would be to improve regulator performance and provide benchmarks for business. This could include obligations on regulators to actively manage regulatory frameworks and advise on where it continues to be fit for purpose. This is known as 'stewardship'.

This would also include the phased introduction of a standard suite of regulatory powers, to enable regulators to engage in more flexible and proportionate regulation through a well-understood suite of tiered enforcement options.

Ensuring continuing improvement and standards for regulator best practice and performance will benefit business. This could be achieved through changes to legislation to support better regulatory settings and practices. The Productivity Commission has noted studies showing that up to 50% of unnecessary costs for business are due to how regulators implement regulations.

### Alignment with Jurisdictional Scan

The concept of 'stewardship' has been promoted in several jurisdictions. The objective is to impose duties on regulators to assess effectiveness and appropriateness of legislation and regulatory practice on a regular basis.

## BETTER REGULATION AGENDA 2022-23

We have listened to business and have heard that business wants:

- government to better understand the needs and experiences of business;
- information for business to be clearer and targeted to business;
- to only tell government once;
- to know where they can go to get help and for there to be someone they can talk to who understands business;
- government to 'think small first';
- government to say 'yes' whenever it practicably can;
- government to be more transparent, coordinated and consistent; and
- streamlined, faster processes and approvals.

Considering these findings from the Discovery Phase, the Taskforce has developed an Agenda for Better Regulation for the ACT which will be implemented progressively during 2022 and 2023.

Through its Better Regulation Agenda, the ACT Government is putting in place the best settings for business recovery, longer term growth and regulation in the ACT. The ACT Government is making government-business interactions better, faster, and simpler through identifying and making improvements to the rules, regulations, government processes and available information and supports for business.

The Better Regulation Agenda will ensure that Canberra is a place where it is easy to start up and run a business. It supports regulators to create certainty for business, ensures consistency of information and facilitates clear and open business-government communication on regulatory issues.

The Better Regulation Agenda is comprised of two key streams of focused Government reform action:

- **Policy and Legislation** – making continual improvements to the rules, regulations, and processes; and
- **Business Experience and Regulator Performance** – making government-business interactions better, faster, and simpler.

These streams will be progressed in parallel so that improvements for business are delivered as quickly as possible.

DRAFT

## Stream 1: Policy and Legislation

### Review legislation, policies and processes with an SME lens to support best practice procurement framework

This will include a consideration of:

- Local Industry Participation and Aboriginal and Torres Strait Islander Procurement policies to ensure that they are achieving their objectives.
- Not for profit procurement reporting requirements.
- Requirements around liability and insurance provisions.
- Government panels and the process for refresh of these mechanisms.
- Procurement thresholds
- Understand the cost on business in responding to ACT procurement to ensure proportionate tender requirements.
- Review of the current systems for collection of procurement data.
- Ensuring that the program of external Continuing Professional Development offerings on ACT Procurement include content geared towards SMEs.

### Ready the ACT for the commencement of Automatic Mutual Recognition (AMR) of occupational licensing

- Put in place legislative instruments to ensure the effective operation of AMR in ACT.
- Ensure that there is alignment where possible with other states and territories.
- Work with regulators to ensure there is clear, consistent information available for workers on how AMR works in the ACT.

### Develop options to improve existing regulatory arrangements

Initially focusing on:

- The execution of statutory declarations and deeds in government and business processes.
- Model rules for Incorporated Associations under the *Associations Incorporation Act 1991*.
- References to outmoded payment methods (including unnecessary references to cheques) in legislation.
- ACT refresher training courses for interstate Responsible Service of Alcohol certificate holders.
- The licensing of employment agents under the *Agents Act 2003*.

### Night-time and Entertainment Economy: Regulatory Quality Framework Approach

- Applying the draft ACT principles, work with industry and across government to review the policy, legislative, regulatory and process requirements that “frame” the night-time and entertainment economy industries.
- Support work underway under the *Parliamentary and Government Agreement* to amend planning legislation to provide for a city entertainment precinct.
- Work with Access Canberra to map and streamline applications, licenses and information resources for the industry.
- Work with policy owners to consider core regulatory frameworks of noise and liquor to ensure that they are delivering the objectives of Government.

## Stream 2: Business experience and regulator performance

### Better understand business

- Develop a survey of business sentiment to measure the quantity and quality of interactions of business with government over time.
- Develop options to better measure and benchmark regulatory burden.
- Map the end-to-end business user experience.
- Pilot a model for human-centred design for new regulation.

### Clear information for business

New and improved information and tools for will be provided for business which will include:

- An infographic on who’s who and who to contact in regulatory agencies
- A web resources providing advice and guidance on how to start and run a business in the ACT.
- An overhaul of existing Access Canberra websites to provide this clear information and an entry point for business.

### Targeted support for business to navigate and try new things

- Introduce a dedicated, proactive business support team to work through a “concierge” model one-on-one with business to educate and problem solve. This would include working with existing or new and emerging businesses to find solutions and enable innovation.
- Develop a customer commitment to finding solutions for business, making it easier to say yes to business ideas while managing the harms and risks that set our requirements.
- Develop a ‘sandbox protocol’ to empower regulators to explore innovative ideas. This may include targeted regulatory exemptions to allow for innovative products or services with appropriate requirements for managing risks and monitoring outcomes.

### “Only tell us once”

- Use data to inform regulatory focus and protections
- **I still don't know what this means**
- Through detailed mapping of business experience, identify and streamline sources of reporting duplication.

## Stream 1: Policy and Legislation – Improving Rules, Regulations and Processes

Commented [CF19]: Sam – is this an OK way to describe each measure or do we need more about the actions?

### Review legislation, policies, and processes with a SME lens and bring options to Government to support a best practice procurement framework

This measure acknowledges the importance of government procurement to business in the ACT. It includes a wide-ranging review of many components of the procurement framework to ensure that it remains fit for purpose and is achieving its objective.

### Ready the ACT for the commencement of automatic mutual recognition (AMR) of occupational licensing.

Business wants to ensure that there is reciprocal recognition of licences to support occupational mobility from interstate. As a cross border community, automatic recognition of the occupational licences of workers registered in New South Wales will reduce barriers for ACT businesses to quickly and easily onboard interstate workers.

### Develop options to improve existing regulatory arrangements for:

- the execution of statutory declarations and deeds in government and business processes;
- model rules for Incorporated Associations under the *Associations Incorporation Act 1991*;
- references to outmoded payment methods (including unnecessary references to cheques) in legislation;
- ACT refresher training courses for interstate Responsible Service of Alcohol certificate holders; and
- the licensing of employment agents under the *Agents Act 2003*.

Several individual reform opportunities have been raised with the Taskforce and warrant consideration by Government. These reforms are the first tranche of important ‘stock management’ measures. We continue to listen to business and regulators to identify other reform opportunities for our future work program.

### Night-time and Entertainment Economy: Regulatory Quality Framework Approach.

The night-time/entertainment economy has been significantly impacted by the COVID-19 pandemic. The hospitality and entertainment sectors make a significant contribution to the ACT’s economic recovery, the jobs market and the way of life for Canberrans.

Business has raised several concerns about how this sector is currently regulated. Noise management, an uncoordinated approach to approvals, disproportionate burden of fees for differing scales of businesses, an overall lack of integration of policy and lack of clear information on compliance requirements are the concerns that have been raised.

The Taskforce will apply the draft principles for Best Practice Regulation (Box 1) to this review with the aim of increasing capability and literacy with best practice regulation in the ACT Government.

## Stream 2: Business experience and regulator performance – making government-business interactions better, faster and simpler

### Better understand business by:

- Developing a survey of business sentiment to measure the quantity and quality of interactions of business with government over time.
- Developing options to better measure and benchmark regulatory burden.
- Mapping the end-to-end business user experience.
- Piloting a model for human-centred design for new regulation.



Business has told us that government could improve its understanding of the needs of business. We also heard that business wants government to 'stand in the shoes' of business when thinking about regulation. Business wants to be consulted in the design, implementation and enforcement of regulation.

#### Clear information for business

Business told us it is inefficient when they are required to provide the same information to different entities. Business needs accurate, targeted information from government which they can access how and when it suits them. Business needs information to help thrive in the ACT and needs to know who to reach out to if there is a problem. Business needs information to help thrive in the ACT and needs to know who to reach out to if there is a problem.

Areas of unnecessary duplication in legislation or regulatory practice will be identified and removed.

#### Targeted support for business to navigate regulatory requirements and try new things

Business would like to connect directly with someone in government to problem solve and obtain one-on-one support. Business would also like to engage with government when exploring innovative or new ways to do business.

#### 'Only tell us once'

Business feels it is inefficient when they are required to provide the same information to different entities. Areas of unnecessary duplication in legislation or regulatory practice will be identified and removed.

## WHERE TO FROM HERE?

### Delivering the Agenda

The Better Regulation Agenda will be delivered by the Taskforce during the remaining 2 years for which it is funded.

Measures in the two streams will, where possible, be delivered concurrently. An implementation schedule with delivery milestones which takes into account dependencies between several measures will be prepared by the Taskforce in consultation with stakeholders

The Better Regulation Agenda includes measures that span several directorates and agencies, including Economic Development and Access Canberra. Some reforms will be delivered by the Taskforce, while others will involve delivery led by the subject matter experts in ACT directorates and agencies.

The Taskforce will retain an oversight and co-ordination role for all measures on the Agenda.

The Taskforce will be responsible for monitoring and reporting on WHOg progress against the Agenda. The Taskforce will evaluate and report on progress of delivery of the actions. The Taskforce will also prepare an evaluation program to measure the impact of the Agenda against outcomes. Measures to support ongoing evaluation of the effectiveness of the Better Regulation Agenda include:

- Developing a survey of business sentiment to measure the quantity and quality of interactions of business with government over time.
- Developing options to better measure and benchmark regulatory burden

The next key reporting milestone will occur in late 2023, when a report on progress against the Agenda will be made along with recommendations by the Taskforce to government on future potential reforms.

**Commented [CF20]:** Minister comments:

-We should include some detail on how we will measure the impact of the changes we intend to make.

**Interim reporting**

-Flag that this is the discovery report and has identified the areas of work, and provides the first 12 months of work  
-We will provide an update in the form of an interim report in 12 months time (which will go to Cabinet first), and this will detail what's been done to date and the next themes that will be tackled

**Commented [ES21]:** I'm not sure about this. I suggest removing. Not because I don't think we should subject ourselves to evaluation (which I do). But the role of the BRT is to evaluate existing regulatory frameworks. Evaluation of our value in evaluating those reforms starts getting a bit abstract and I think causality will become an issue. Also we won't be in control over significant areas of regulator performance.

Change to focus on monitoring of business sentiment to identify opportunities for continuous improvement.

## Towards A Regulatory Quality Framework

Regulation that is done well can boost the economy and deliver the best outcome for ACT business, consumers, and the community at large.

Our analysis of regulatory reform approaches across Australia and abroad has shown that there is no single 'right way' to improve regulatory quality. Each jurisdiction has its own approach, processes, and arrangements to suit the specific regulatory landscape. What is common, however, is a recognition that achieving best practice and better regulation is usually underpinned by a framework that focuses on regulatory quality ([Appendix G](#)).

Many elements of a regulatory quality framework are already in place in the ACT (see [Box 3 – Appendix G](#)). Over the next two years, the Taskforce will draw together these existing elements, test new ideas and co-design a co-ordinated and coherent regulatory quality architecture for consideration by Government.

Drawing on this survey of best practice examples from Australia and beyond, as well as our engagement with business, the Better Regulation Taskforce has developed for consideration a set of draft principles to guide the next phase of work of the Taskforce. The principles are draft because they need to be tested for the coherency, effectiveness, and applicability in the ACT context.

As the Taskforce works to implement the Better Regulation Agenda, it will adopt opportunities to apply a regulatory quality framework approach, beginning with the application and testing of a set of draft principles for Best Practice Regulation ([Box 1](#)). The Better Regulation Agenda provides a crucial learning and engagement opportunity to test and progress these big ideas while delivering immediate improvements for business.

### **Box 1– Towards Better Regulation – Draft Principles for ACT**

#### **Principle 1: Articulate the 'why'**

- Regulation should only be introduced and retained where there is a clear need for government intervention – a clear problem to be addressed or a clear outcome the government is trying to achieve.

#### **Principle 2: Assess the impact**

- As a fundamental part of the policy development for legislation and regulation, an assessment of the impact of regulation (including its impact on wellbeing), within the context of existing regulatory burden, should be undertaken.
- This impact should be considered as a part of the government decision making process, including a consideration of a range of feasible policy options – including non-regulatory approaches.
- The assessment should include an assessment of risk and a consideration of risk appetite and tolerance.

#### **Principle 3: Be accountable**

- When the government makes decisions about regulation and regulatory approaches, the basis for those decisions and supporting evidence should be publicly available by default.
- Regulator discretion should be supported by transparency and accountability measures.

#### **Principle 4: Make room for leading practices**

- Regulation should allow regulators and regulated entities to innovate.

- Regulators should have access to a range of compliance and enforcement tools.

**Principle 5: Put people at the centre**

- Utilise human-centred design principles to ensure regulatory systems are effective and efficient.
- At all stages of the policy development and regulatory cycle, regular and effective consultation with stakeholders, especially regulated entities, should occur.

**Principle 6: Easy to comply**

- Regulation should be in plain language.
- Government systems should support seamless interactions between government and regulated entities.

**Principle 7: Remain effective**

- Regulation should be monitored and evaluated periodically to simplify, reform, modernise or consolidate.
- Regulators should regularly assess their delivery approaches and impact on regulated entities.

### Possible Future Program

The Taskforce has heard a range of views from on potential options for a future work program. In late 2023, the Taskforce will report to government on potential reform options for 2024 onwards.

Based on what The Taskforce has heard during the Discovery Phase, some potential reform options are described in Figure 2. However in light of the continually evolving regulatory landscape, these will need to be re-validated before being put forward on any future agenda for regulatory reform.

## Better Regulation Agenda – potential options for future work program

### Stream 1: Policy and Legislation

#### Develop options to improve existing regulatory arrangements

Could include review and recommendation focussed on:

- The best regulatory framework to support the motor vehicle traders industry.
- Remove cross-border inconsistencies with NSW in licensing and other regulatory requirements.
- Security of payments work in construction industry.
- Review of taxi fares.

### Stream 2: Business experience and regulator performance

#### Better understand business

- Develop government-business secondment program to improve government understanding of business context and promote stronger networks.

#### “Only tell us once”

- Move towards a single digital account for business.

### Stream 3: Regulatory Quality Framework

- Develop for Government endorsement an ACT-wide Regulatory Quality Framework

DRAFT

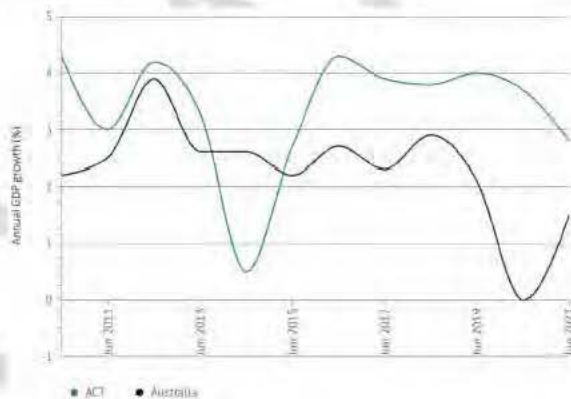
## APPENDIX A – ECONOMIC AND BUSINESS LANDSCAPE

### The ACT Economic and Business landscape and COVID-19 impacts

#### Economic Growth

The ACT is both one of the smallest and strongest economies in the country. As at November 2021, it contains a population of 432,300<sup>7</sup> with over 31,000 businesses<sup>8</sup> and has a gross state product (GSP) of over \$43.3 billion.<sup>9</sup> The ACT's economy has grown strongly and steadily since 2015.

Figure 2: Economic growth in ACT - 2010-2021<sup>10</sup>



#### ACT Business landscape

The ACT has a unique business landscape that sets it apart from other Australian jurisdictions. The Australian Bureau of Statistics demonstrates a 5.8 per cent increase in the number of businesses in the ACT during the 2020-2021 financial year.<sup>11</sup> This was the largest percentage growth in any state or territory with an increase of 1,732 business, bringing the total active ACT businesses to 31,499 total. Of this amount in this period, the ACT had 11,437 small businesses (1-19 employees) and 18,517 non-employed businesses

<sup>7</sup> Australian Bureau of Statistics. 2022. *National, state and territory population, June 2021*. Available at: <<https://www.abs.gov.au/statistics/people/population/national-state-and-territory-population/latest-release>> [Accessed 21 February 2022].

<sup>8</sup> Australian Bureau of Statistics. 2022. *Counts of Australian Businesses, including Entries and Exits, July 2017 - June 2021*. [online] Available at: <<https://www.abs.gov.au/statistics/economy/business-indicators/counts-australian-businesses-including-entries-and-exits/latest-release#key-statistics>> [Accessed 21 February 2022].

<sup>9</sup> 5220.0 Australian National Accounts: State Accounts, Table 1. Gross State Product, Chain volume measures and current prices.

<sup>10</sup> SGS Economics and Planning Pty Ltd, 2021. *Australia's Economic Wellbeing*. [online] p.53. Available at: <[https://www.sgsep.com.au/assets/main/Publications/SGS-Economics-and-Planning\\_Australias-Economic-Wellbeing-2021.pdf](https://www.sgsep.com.au/assets/main/Publications/SGS-Economics-and-Planning_Australias-Economic-Wellbeing-2021.pdf)> [Accessed 21 February 2022].

<sup>11</sup> Australian Bureau of Statistics. 2022. *Counts of Australian Businesses, including Entries and Exits, July 2017 - June 2021*. [online] Available at: <<https://www.abs.gov.au/statistics/economy/business-indicators/counts-australian-businesses-including-entries-and-exits/latest-release#key-statistics>> [Accessed 21 February 2022].

operating.<sup>12</sup> These types of businesses combined, make up over 95% of total businesses in the ACT. In 2020-2021, the survival rate of small and non-employing businesses varied across industries, with an average survival rate of 55.1% for non-employing businesses and 70.5% for small businesses (1-19 employees).<sup>13</sup>

### COVID-19 Impacts

Prior to the COVID-19 pandemic, the ACT had strong economic growth and business performance. The COVID-19 pandemic has and continues to impact the ACT in a myriad of ways. The impact of the pandemic in Australia and the ACT in 2020 was extensive, particularly on Micro, Small and Medium-Sized Enterprises. The industries significantly impacted included Construction, Retail Trade, Accommodation and Food Services, and Arts and Recreation Services.

### Emerging from the pandemic in 2020

The ACT performed strongly comparatively in 2019-20, avoiding a COVID-19 recession. Emerging from the initial shock of the pandemic at the end of 2020, the ACT had strong economic recovery and business participation. Particularly, it saw recovery in Accommodation and Food Services, with growth subdued due to ongoing tourism constraints.<sup>14</sup> Nationally, some sectors were particularly hard hit by the emergence of COVID-19.<sup>15</sup> As of April 2020, the following sectors had experienced the most severe reductions in monthly turnover:

- Retail trade (down 23%);
- Accommodation and food services (down 38.6%); and
- Arts and recreation services (down 45.9%).

### Rise of Delta variant and lockdowns throughout 2021

The first half of 2021 was encouraging with the ACT's economy grew by 2.8% in 2020-21.<sup>16</sup> However, the sudden increase of cases across Australia led to further lockdowns in most jurisdictions which severely impacted economic recovery and business viability. Data for the September 2021 quarter shows that ACT, along with NSW and Victoria, saw economic decline as a result of COVID-19 outbreaks and associated lockdowns between July and September.<sup>17</sup> While the ACT entered lockdown under Public Health Orders following NSW, it had already been economically impacted by their lockdown. The ACT had a low drop in labour force participation during the first wave of COVID lockdowns, however the second wave of lockdowns in the ACT from August 2021 was far more severe. In the context of the discontinuation of the Federal Job-Keeper payment labour participation in 2021 fell to 79 per cent and unemployment rose to 6.2 per cent (the highest unemployment rate in the ACT since 1999).<sup>18</sup> Of the ACT's approximately 30,000 businesses, almost a third applied for COVID-19 Business Support Grants.<sup>19</sup>

<sup>12</sup> 8165.0 Counts of Australian Businesses, including Entries and Exits, June 2017 to June 2021. Released 16 December 2021. *Businesses by Main State by Industry Class by Annualised Employment*.

<sup>13</sup> 8165.0 Counts of Australian Businesses, including Entries and Exits, June 2017 to June 2021. Released 16 December 2021. *Survival of Businesses by Main State by Subdivision by Employment Size Ranges*.

<sup>14</sup> SGS Economics and Planning Pty Ltd, 2021. *Australia's Economic Wellbeing*. [online] p.5. Available at: <[https://www.sgsep.com.au/assets/main/Publications/SGS-Economics-and-Planning\\_Australias-Economic-Wellbeing-2021.pdf](https://www.sgsep.com.au/assets/main/Publications/SGS-Economics-and-Planning_Australias-Economic-Wellbeing-2021.pdf)> [Accessed 21 February 2022].

<sup>15</sup> <https://www.abs.gov.au/statistics/economy/business-indicators/monthly-business-turnover-indicator/latest-release#data-download>

<sup>16</sup> SGS Economics & Planning. 2022. *National economic growth hides the differing experiences across Australia's cities and regions, new report reveals* | SGS Economics & Planning. 7 December 2021 [online] Available at: <<https://www.sgsep.com.au/publications/insights/australias-economic-wellbeing-2>> [Accessed 21 February 2022].

<sup>17</sup> Ibid.

<sup>18</sup> SGS Economics and Planning Pty Ltd, 2021. *Australia's Economic Wellbeing*. [online] p.6. Available at: <[https://www.sgsep.com.au/assets/main/Publications/SGS-Economics-and-Planning\\_Australias-Economic-Wellbeing-2021.pdf](https://www.sgsep.com.au/assets/main/Publications/SGS-Economics-and-Planning_Australias-Economic-Wellbeing-2021.pdf)> [Accessed 21 February 2022].

<sup>19</sup> ACT Government, Budget 2021-2022, Budget Outlook, Canberra, October 2021, p.17. <<https://www.treasury.act.gov.au/budget/budget-2021-22/budget-papers>>.

ACT regulatory agencies played a key role during the lockdown period of informing and regulating businesses compliance with the public health directions. Different States and Territories took varying approaches in how they communicated to businesses the changing public health directions. Some relied extensively on online channels and strict enforcement, whereas we observed that Access Canberra used a broader range of methods such as site visits as part of their engage, educate and enforce method. While recognising that the public health restrictions limited business activity, they appear to have been implemented and regulated in a way that prioritised supporting businesses to comply.

The outdoor activation taskforce was also an interesting case example of how ACT regulatory agencies took a lead role during the period of restrictions to find solutions to support businesses. Given the public health restrictions limits on indoor dining capacity, the taskforce identified and certified XX new or temporary expansions to permitted outdoor dining space.

### COVID 'normal' throughout 2022 and beyond

The continually evolving landscape of COVID-19 and the impact of the Omicron variant requires adaptive government responses and fit-for-purpose regulation. The 'new normal' of living with COVID-19 and evolution of variants in 2022 and beyond will bring new challenges for ACT business, as well as fundamentally change the ways in which economic growth and business participation takes place in the Territory. The pandemic has changed consumer behaviours and the ways that business trade, operate, and communicate as well as demonstrated the remarkable resilience of businesses in transforming operations within short periods of time.

## APPENDIX B – METHODOLOGY

The Taskforce has used the Discovery Phase to seek answers to its core questions by undertaking:

- engagement with business and stakeholders;
- Aawide-ranging Legislative Review; and
- jurisdictional analysis.

The Taskforce also progressed the Commonwealth's deregulation reform agenda.

### Engagement

During the Discovery Phase, the Taskforce sought to identify issues emerging from regulation that place burdens on business and identify the most effective levers to use to address these.

Informed by HCD principles, the Taskforce sought to engage with a wide range of business to better understand the issues they face, and the possible solutions required.

By employing a HCD approach to consultation, the Taskforce sought to capture what is working well, locate the key pain points for different stakeholder groups, and gain an understanding of where regulatory reforms could deliver the most value.

### Engagement Principles

The Taskforce employed key engagement principles throughout its engagement. These were to:

- engage with stakeholders in ways that suit them— by acknowledging that business owners and representatives are very busy;
- keep stakeholders informed – by understanding engagement as a two-way process; and
- engage respectfully – by acknowledging the valuable time and insight of stakeholders.

## Engagement Activities

The Taskforce undertook a broad program of consultation and engagement across Canberra. This included focus groups, workshops, roundtables, and one-on-ones. The Taskforce engaged with business, precinct groups, peak bodies, industry forums and government regulators to hear about issues that businesses are experiencing.

### Factsheet

A factsheet was published in March 2021 on the ACT Government website introducing the Taskforce, its role, and its immediate focus of improving regulation.

The factsheet and associated web content encouraged business to *have their say* through an open call for business to share their experiences, known barriers, and ideas for improvement with the Taskforce. A series of questions were posed to help start this conversation:

- What is the biggest issue facing your business right now?
- How has ACT regulation supported or strained your business during the COVID-19 pandemic?
- What are your interactions with the ACT Government like?
- What do we do well?
- What could we improve upon?
- Is the information and support you need to run your business in the ACT easily accessible?
- What other information would make it easier to run your business? Where would be the best place for you to access this?
- Are there government requirements on your business that are onerous, take too long or are confusing?
- How could we enhance our reputation as being the best place to do business?
- What processes, rules or regulations present barriers or hurdles to you doing business in the ACT?
- Have you experienced any duplication between Commonwealth and ACT processes?
- How could this be improved to be more aligned?
- Are there any government forms or processes that could be digitised and moved online?

The Taskforce's email and a contact number were provided so that business could reach out to the Taskforce directly.

### Workshops

The Taskforce held in person workshops to obtain a high-level understanding of key regulatory issues in the ACT. These workshops were focused on capturing the breadth of issues that represent unnecessary regulatory burden and make it hard for businesses to interact with Government.

The Taskforce targeted its workshop engagement activities on sectors that have been hardest hit by the COVID-19 pandemic, such as the entertainment/night-time economy, and sectors with the greatest potential for growth and jobs creation in the future, focusing on innovation and entrepreneurship.

The workshops conducted throughout 2021 were:

- 29 March 2021 – ACT Government Stakeholders
- 30 April 2021 – Night-time economy and entertainment sector
- 23 June 2021 – Innovation sector
- 28 July 2021 – ACT Procurement

These workshops were targeted at sophisticated small businesses, large businesses, peak bodies/industry associations, and government stakeholders. The workshops explored issues that currently impede efficient business practice or create subpar regulatory experience and how they might be addressed.



The Taskforce developed interactive agendas for these workshops to address topics of interest. Workshops were run by an expert facilitator and insights were captured around the key themes to emerge through the workshop.

### **ACT Government Stakeholders**

This internal workshop introduced the Taskforce to key business areas across ACT Government. The workshop helped provide focus to the Taskforce's program of work, informed stakeholder mapping, and provided the regulator's perspective on optimising regulator efficiency and effectiveness.

### **Night-time economy and entertainment sector**

As demonstrated by the economic indicators, the ACT night-time economy and entertainment sectors were particularly hard hit throughout COVID-19 and continued to manage public health restrictions in 2021, while most of Canberra had returned to low or zero restrictions. Attendees comprised representatives of business peak bodies, as well as business owners and managers from the relevant sectors.

### **Innovation sector**

This workshop focused on the regulatory barriers facing the innovation sector, defined as encompassing start-ups, green economy businesses, tech and cyber security businesses and higher education institutions. The workshop was developed and delivered in partnership with the Canberra Innovation Network.

### **ACT Procurement**

The Taskforce, with the support of Procurement ACT, held a workshop focused on government procurement. The Taskforce had heard from members of the Canberra Business Chamber, Canberra Women in Business and Canberra Innovation Network that procurement was an area that the Taskforce should focus on. This workshop aimed to provide information for attendees on the current ACT Government procurement framework and help the Taskforce better understand the challenges and opportunities in relation to ACT Government procurement and what it should focus on addressing.

In addition to this workshop, a survey was released in December 2021 by Procurement ACT to review its procurement systems, processes and engagement with industry as well as seek feedback from users on their experiences in tendering for opportunities with the ACT Government. The survey results will serve to identify future opportunities for improvement and inform future requirements for whole of government procurement systems.

### **Attending existing forums**

Taskforce representatives attended existing business forums, recognising the valuable time of business by ensuring their experiences were listened to in their working environment. These included the Canberra Region Tourism Leaders Forum, and member roundtables held by the Canberra Business Chamber.

### **One-on-Ones**

The Taskforce conducted extensive one-on-ones with a wide variety of ACT businesses and peak bodies/industry associations at times and in locations that suited industry best.

## **Legislative Review**

The Taskforce commissioned a scoping study of opportunities for Legislative Review to help remove regulatory burden on industry and business in the ACT. The wide-ranging Legislative Review prioritised the need to:

- reduce the requirement for businesses to contact multiple Government agencies; and
- ensure legislation across the ACT supports new business models to grow the digital economy.

The review also allowed for the identification of opportunities to reform legislation to ensure regulatory settings remain fit for purpose and consistent with best practice principles.

Potential review projects were identified throughout the following processes:

- scan of the entire ACT primary legislation database;
- jurisdictional review of recent regulatory developments in the Commonwealth, the States and New Zealand; and
- review of the outcomes of stakeholder consultations conducted by the Taskforce.

## Jurisdictional Analysis

An extensive jurisdictional analysis was undertaken to identify previous and current reform programs and statements of best practice principles across the country and internationally. The Taskforce reviewed trends and regulatory policy to determine a criterion by which existing regulation could be considered, as well as a framework against which new regulation could be assessed.

## Alignment with, and delivery of, the Commonwealth's Deregulation Agenda

The Taskforce, while progressing its work program, has also been facilitating the ACT's contribution to nation-wide regulatory reforms, principally through the Council on Federal Financial Relations, through to National Cabinet.

The Taskforce represents the ACT Government across several Commonwealth working groups for a variety of regulatory reform projects. These projects include:

- Modernising Business Communications - Modernising Document Execution (MDE);
- Improving Occupational Mobility - Automatic Mutual Recognition (AMR); and
- Overlapping Regulation.

# APPENDIX C – BUSINESS ENGAGEMENTS

During the Discovery Phase, the BRT collaborated directly with businesses to provide the opportunity to contribute ideas and solutions that would best support their success. These ideas build on the already embedded 'How can we help' approach of Government agencies and regulators, with the view of improving the experience for everyone. Across our engagements with business, some key themes emerged. These included:

- small business information and communications;
- simplification of Government to business interactions;
- regulator practice (clarity, capability, culture, and continuous improvement);
- programs and support for SMEs;
- skilled workforce; and
- continuous improvement – reviewing legislation and regulations.

Feedback from business may fit into more than one of these themes.

## Small business information and communications

Small business operators are diverse, requiring varied communication needs and engagement preferences. Through our engagements we have heard:

### Business needs and preferences

- Business has limited time and resources to seek out relevant government information.

- Business needs information to be clear, targeted and promoted for their awareness.
- Most prefer business specific communication channels over general channels, and there is a strong preference for digital information over hard copy materials.
- Business has different information needs depending on what stage of the business lifecycle they are in. There is a need for information and advice at key growth stages as businesses grow and take on new responsibilities such as hiring staff or embracing more sophisticated management approaches.

#### Online information – accessibility

- With an increased focus on providing information online there is a need to ensure that information on websites is clear, easy to read and use, and regularly updated for currency (including links).
- Website information needs to be accessible across a range of digital devices, including mobile phones and other personal digital devices.

#### Personal contact points

- Communiques and information sent from the ACT Government should provide business with an opportunity to talk to a government officer. A lot of information is routed through websites, and there is often a lack of a phone number or other way in which an affected business can talk to an officer.
- After accessing information online, business operators and start up entrepreneurs often need to talk to someone in government personally. Some have ideas or questions not resolvable online; others find existing text confusing or contradictory and need clarification.
- Government should give business operators an opportunity for phone calls, to help answer questions, give the personal touch and get feedback or identify problems from business.

#### Communiques about regulatory changes

- Any proposed changes which are likely to impact on business costs, trading hours or employment practices should be advertised and promoted in advance of any such changes being implemented. There needs to be sufficient time to communicate with business owners and for the necessary changes to be made to operations.
- Any information or consultation about regulatory changes which may impact small business need to include small business advisors (e.g. accountants, legal advisors) and peak bodies as key audience groups as they play an active role in filtering and nuancing information for their small business clients.

#### Providing targeted information, advice, and support to business

Business suggested various methods (physical and virtual) to provide targeted information and advice to support them in starting, running, and growing a business in the ACT. These included:

- A business centre which provides assistance from a credible source (i.e. being able to speak to someone who has run a business and understands the realities of running a business).
- An easy to access business hub to better connect business with government, including getting information on available business support, i.e. rebates and grants with industry specific support.
- A business concierge service which provides a dedicated agent who can answer questions about what services and supports are available to business, and how to access them.

## Simplification of Government to Business interactions

Businesses were asked to share their experience of interactions with government and the ease of doing business in the ACT. Improvements were suggested for some processes and approvals associated with running a business or holding a major event in the ACT. Ideas were also suggested for potential innovation and simplification for business and government interactions. We heard that: **Processes and approvals**

- Approval processes can be difficult, drawn out and there can be minimal or no update on the process after lodgement of the application. Some examples include the:
  - processing times of working with vulnerable people checks;
  - processing times and consultation requirements for development approvals;
  - difficulties that 'pop up' business experiences in navigating processes and obtaining necessary approvals;
  - ease of seeking events approvals, especially for repeated annual events where applicants must undergo the same processes afresh; and
  - duplicative processes within and between the ACT Government and the Commonwealth (for example seeking approvals from the National Capital Authority).
- Processes and approvals could be supported by:
  - improving processing times and communications on the progress of applications;
  - applying a 'yes' first regulatory culture and explaining 'how' stakeholders can do or achieve an outcome;
  - applying a 'tell us once' principle where the same information must be provided to different ACT Government agencies, or when the same event is repeated over time (e.g. yearly); and
  - Support collaboration and feedback between those working on the ground and Government agencies (or a similar description) to devise mutual improvements to processes.

### Streamlines business reporting – Tell Us Once Principle

- Business feel it is inefficient when they are required to provide the same information to different entities.
- A 'tell us once' principle could be adopted so that business must only submit similar information to ACT regulators once (for example updating information about board members).
- This principle could also be adopted for other information requirements relating to licensing (for example (fit and proper person test).

### Business licences and renewals

- Many business licences are offered on an annual basis, although renewal is routine and non-controversial.
- Renewing licenses is a task that takes up time and managerial effort.
- Business would like greater flexibility by being given the option for multi-year regimes, as well as annual renewals.

## Regulator Practice (clarity, capability, culture & continuous improvement)

Engagement with business has shown where some regulator practices can be improved to enhance clarity, capability, culture, and employing a continuous improvement approach.

Through our engagements, we heard that:

## Understanding the needs of business and providing a personalised approach

- Business prefers to speak with people who have lived experience with running a business and who understand the intricacies and challenges.
- 
- Business dealings with government could be improved by:
  - encouraging government to actively recruit public service candidates with a former business or business-enabling background;
  - educating regulators to understand the experience of the business community and help support productive dialogues, possibly through professional placements within industry associations;
  - using co-design processes to bring business stakeholders into earlier parts of the regulatory design stage; and
  - creating a personalised approach to regulatory compliance activities through a case manager approach, so business can develop ongoing productive relationships with regulator staff (individual or team). Facilitating contemporaneous feedback, tailored responses, the upfront triaging of issues and continuous improvement by regulators.

## Regulatory approach and compliance enforcement culture

- Regulatory policy needs to recognise the needs of business, be cognisant of the impact of regulation on small business at a community level and seek to minimise the cumulative burden of regulation.
- Business stressed the importance of regularly measuring the burden of regulation on business both actual and perceived through annual or bi-annual surveys.
- Business called for the ACT to lead the way by applying a 'think small first approach' to regulation, wherein laws are written first and foremost for small business, considering their ability to apply. If greater or high standard of compliance are expected by larger firms, then this should be an explicit addition to the law.
- Business called for the ACT to strive to have identical or similar laws to those in NSW, unless there is good reason not to do so. Reducing the cost of different regulation for two adjacent jurisdictions.
- Business also suggested the ACT compare and contrast its performance to that of nearby regional NSW. The ACT should at least match, or better, the operating environment for business in NSW.

## Supporting straightforward business compliance and alleviating the burden of regulation

- Straightforward business compliance could be supported by:
  - developing a streamlined online portal that allows business to quickly understand which regulations apply to them, and which provides educational material on how they can fulfil their requirement;
  - making regulatory compliance straightforward by ensuring clarity around legislation;
  - reducing the subjectivity in regulation and its application;
  - ensuring legislation, policy, procedures and fact sheets are written in plain English;
  - providing improved factsheets and checklists to support business understanding and compliance, as well as preparedness for inspections;
  - refining Access Canberra's role through improving upfront triaging of issues and adopting a case manager approach to regulation and compliance;
  - providing simple, accessible training to support compliance;
  - clarify the ACT's regulators and Ministerial portfolio responsibilities and 'who does what', so business knows who to speak to about specific issues; and/or
  - ensuring that regulators take the time to understand the perspective of regulated entities (i.e. 'walking in the shoes' of business).

- Where there are multiple regulatory agencies, government and regulators need to alleviate the burden on business through:
  - ensuring that the regulation is justified through cost-benefit analysis;
  - ensuring appropriate co-operation and coordination (for example coordinating inspections and where possible, holding them at off-peak times);
  - easy and swift interactions with government agencies; and
  - investing in, and using, digital technology (RegTech) to ease interactions with government agencies.

## Programs and Support for SMEs

Small to medium enterprises (SMEs) expressed the ongoing need for programs and support, throughout COVID-19 and beyond.

Business was encouraged by some of the COVID-19 business support initiatives, including the Choose CBR program and the waiving or reduction of hire car registration costs during the peak of the COVID-19 pandemic.

Outside of COVID-19 specific supports, business indicated the need for general business support for those in the growth stage of the business lifecycle. Business noted that there are many existing grants for start-ups and big business, but not for those in the middle, which makes it difficult for those trying to scale up their operations to access tailored information and support.

Business, particularly SMEs, also expressed a strong desire for support in understanding government procurement requirements, and in bidding for government procurement opportunities.

### ACT Government Procurement

Business identified some current barriers to undertaking procurement. We heard that:

#### Understanding and awareness and SME engagement

- The ACT Government procurement system can be confusing. There is an apparent lack of SME understanding of the various procurement opportunities available across different sectors. This includes a lack of understanding about SME eligibility to bid for ACT Government contracts and how to apply to get onto ACT Government panels.
- ACT Government employees undertaking procurement often don't understand the realities of running a business and what they are asking of business through procurement processes. This includes the costs associated with bidding for ACT Government contracts.

#### Aboriginal and Torres Strait Islander and women owned business

- Women owned and led business and Aboriginal and Torres Strait Islander owned and led business both identified that more could be done to increase their participation and share of ACT Government contracts, including by challenging perceived bias.

#### Procurement framework – procurement policies and practice

- The existing procurement thresholds are outdated and should be reviewed.
- There could be greater clarity about how to make an unsolicited bid and how it will be dealt with.
- Panels, depending on the frequency in which it is refreshed, can be a barrier for SME participation.

#### Tender documentation and contracts

- Stakeholders identified liability and insurance provisions in ACT Government contracts as a potential barrier for SMEs. They suggested that the contract liability and insurance provisions be

reviewed and reformed, including those clauses relating to uncapped liability, consequential loss and proportionate liability.

- There is a perception that there is little to no tolerance for failure in ACT Government procurement. Mitigating risk leads to the removal of risk entirely making it harder for new, unproven business to be successful.
- There is a need to continue to move away from output reporting and towards outcomes-focused procurement and contracting.
- In respect of the not-for-profit sector, it was noted that there is a need to rationalise the accumulative burden of contractual reporting requirements and grant funding reporting requirements.

#### **Comfortable communications**

- While acknowledging procurement and probity requirements, government officials can often be risk adverse in their communications with prospective respondents/tenderers. Communications can be quite bureaucratic.
- Where questions are asked, business would like a response from a government officer.

#### **Linking procurement policies and practice to broader ACT Government objectives**

- While acknowledging the importance of the Government procurement values and social procurement in the broad, business noted the time it takes to respond to these criteria in procurement documentation does not often align with the weighting assigned to it.
- There could be greater clarity given about Territory objectives for small business, and how business can reach those objectives. If there are quotas, share them with industry. For example, stakeholders suggested using quotas for female representation through procurement processes and contracting as this is more likely to achieve intended outcomes (i.e increase female representation in certain industries). While others noted that this would also need to be supported through education and training measures.

#### **Greater certainty through forecasting**

- Early market engagement and improved forecasting would provide greater clarity to industry. This includes upcoming projects and budgets.
- There is a need to provide greater certainty of infrastructure spend beyond two years.

#### **Debriefing**

- There is little or no feedback provided for failed bids making it harder for business to learn and improve. Where feedback is provided, it often provides little utility to help business better progress their bids in the future. Noting that there are inconsistencies between directorates in their approach to debriefing respondents/tenderers.

#### **Identified opportunities**

Stakeholders identified some opportunities to support having a best practice procurement framework and participation of SMEs in supplying to the ACT government. These included:

##### ***Championing local business***

Provide clear pathways to follow which make it easy for a business to check their eligibility and bid for ACT Government contracts. Build engagement with, and the confidence of, local SMEs to bid for ACT Government contracts.

##### ***Best Practice Procurement Framework***

Maintain a best practice procurement framework by undertaking regular reviews for currency. Review procurement thresholds, communicate the importance of government procurement directions and/or policy objectives to industry and appropriately weight them, and provide greater certainty to industry through forecasting.

**Best practice tender documentation and contracts**

Review ACT Government contract liability and insurance provisions and consider incentive-based contracts.

**Have a 'go to' place for connection**

A central place where SMEs can go to access public facing procurement information and supports. This could include toolkits and guidelines (in plain English), 'how to' videos, tables which summarise all existing panels and their refresh dates, and an SME supplier list (pre-vetted against the procurement values).

**Feedback mechanisms for continual improvement**

Provide respondents/ tenderers a debrief consistent with ACT Government debriefing guidelines.

**Increased ACT Government knowledge and capability**

Ensure consistency in the approach to procurement across Territory entities. Increase the level of knowledge of the procurement framework and capability to undertake procurement across Territory entities. Ensure the people running procurement confidently communicate and answer respondent/tenderer questions, whilst also complying with probity requirements.

## Skilled Workforce

Having skilled staff was a common issue raised by business, particularly in the context of COVID-19. We heard that:

- Business cannot access the staff they need to run and grow their business.
- Skilled workforce shortages have been experienced across a variety of industries, causing business complexities including pressure on staff wages.
- Business wants to ensure that there are reciprocal recognition of licences, to support occupational mobility from interstate. This includes a broad program of Mutual Recognition being undertaken at a national level and specific supports to understand and facilitate transfers of certificates or jurisdictional specific further training.
- Commonwealth and ACT Government measures should work together to support the attraction of workers to the ACT and the hiring/upskilling of staff, including (but not limited to):
  - affordable housing;
  - city renewal and activation;
  - incentives for business to take on apprentices; and
  - visas conditions, for example ordinarily international students are permitted to work 20 hours a week (40 hours a fortnight) while courses are in session, and unlimited hours when their course is out of session.

## Continuous Improvement – Reviewing ACT Legislation and Regulations

Engagement with business has identified potential focus areas for review and reform to ensure fit-for-purpose and best practice regulation. This includes effort to both manage the existing 'stock' of regulation as well as the 'flow' of new regulation. These have varying levels of complexity.

Business raised the need for continuous review and improvement to:

- address regulatory issues faced by the night-time economy and entertainment sectors, with particular focus on noise, outdoor dining and liquor licensing;



- implement a best practice procurement framework for SMEs through reviewing the *Government Procurement Act 2001* and regulation;
- enhance labour mobility through the implementation of a uniform scheme for automatic mutual recognition of occupational licences;
- update:
  - employment agent licensing requirements;
  - model rules for incorporated associations;
  - references to outmoded payment methods in legislation; and
  - training requirements for the Responsible Service of Alcohol framework.

Business raised other focus areas which require further analysis including:

- consideration of a potential licensing framework for individuals as motor vehicle repairers; and
- support for diversification out of gaming through changes to 'lease purpose clauses' definitions (for example changing the definition of 'club' in the territory plan to allow additional uses).

Business suggested that in reviewing and updating legislation and regulations that regard should be given to a regulatory approach which:

- thinks 'small first';
- achieves cross border alignment, where possible, to reduce burden on those business operating across jurisdictions (regional NSW and ACT); and
- reduces overlapping regulation and streamlining compliance reporting (applying a 'tell us once' principle).

## APPENDIX D – LEGISLATIVE REVIEW

Throughout the Discovery Phase, the Taskforce commissioned a Legislative Review to support the objectives of the Taskforce to identify the purely regulatory landscape impacts on business in the ACT. The wide-ranging legislative review identified opportunities for regulatory review and reform to reduce regulatory burden on business.

The focuses of the Legislative Review were to review key legislation to:

- 1) reduce the need for business to contact multiple Government agencies;
- 2) ensure legislation across the ACT supports new business models to grow the digital economy; and
- 3) identify opportunities to reform legislation to ensure regulatory settings remain fit for purpose and consistent with best practice principles.

### Research undertaken

The potential review projects were identified through the following processes:

- scan of the entire ACT primary legislation database;
- review of recent regulatory developments in Australia, across the Commonwealth and States, and New Zealand; and
- review of the outcomes of stakeholder consultations conducted by the Taskforce.

### Potential Identified Projects

The Legislative Review identified six potential projects for review.

### **Project 1 – Regulation of the ‘entertainment economy’**

Review the full legislative and regulatory arrangements for the entertainment economy, which extends across the industry sectors of accommodation and food services and arts and recreation services.

This project was identified through consultation which raised numerous and ongoing barriers faced by the sectors of accommodation and food services, and arts and recreation services, particularly throughout the COVID-19 pandemic.

There are many small businesses in the ACT seeking to operate in these sectors who have expressed concerns regarding the lack of a coordinated approach to approvals and regulations around operating their business. The hospitality and entertainment sectors have great potential to make a significant contribution to the ACT economy, the jobs market and the way of life of Canberrans generally. This review would consider the scope for a fundamental re-organisation of regulatory arrangements affecting the ‘entertainment economy’. The review could examine legislation and regulatory practice in areas including land use, food and beverage regulation, and noise control. It may consider appropriate alternatives to arrangements currently requiring prior approval.

### **Project 2 – Standardise procurement processes across ACT Government**

Standardise procurement processes across ACT Government and consider scope to implement preferential treatment for local content.

Consultations with business have identified barriers for business throughout ACT Government procurement practices.

A review would examine the scope for legislation to provide for the following specific measures:

- appropriate risk assessment and management practices and standards (including insurance requirements for contractors);
- obligations to provide information/feedback concerning tenders; and
- preference for local content in procurement decisions.

### **Project 3 –Technology specific legislation**

Review of legislation to remove any obligations requiring use of a particular technology, including paper-based documents i.

This project focuses on a broad review to ensure updates to legislative vernacular to remove outdated technologies.

Although reforms of this kind have been undertaken in the ACT over recent years, there appears to be benefits from a further review of legislation, statutory instruments and administrative practice in this area. The objective is to enable full use of modern digital technology appropriate to the circumstances. Reviews of these kinds are currently underway in other jurisdictions, including the Commonwealth.

Removal of requirements to provide information in a particular manner will minimise costs to business. Scrutiny of such legislation or other regulatory practices also provides an opportunity to identify and remove requirements that are unnecessary or overly prescriptive. This project would review legislation and

regulatory practices which require, or presume, communications by means of a particular technology, such as a paper-based notice or a meeting requiring personal attendance. This includes arrangements currently suspended because of the COVID-19 pandemic.

#### **Project 4 – Scope for cross-border alignment**

Review of ACT and NSW business regulation legislation to maximise cross-border alignment with NSW, with a focus on legislation having significant impact on small business.

This project is relevant for the ACT as a small jurisdiction surrounded by regional NSW. A large number of businesses, including many small businesses, operate both within the ACT and surrounding areas of New South Wales. Compliance costs due to a lack of regulatory alignment impact disproportionately on small business. A review of regulation and analysing opportunities for regulatory alignment with NSW would make it easier to do business across NSW and the ACT.

A full review of the alignment of ACT legislation with that of NSW would require detailed examination of legislation and regulatory practice across both jurisdictions. This would require consideration of a wide range of policy questions where divergences are identified.

#### **Project 5 – Regulatory overlap**

Review of regulator/regulation overlap and duplication to reduce touchpoints, with a focus on legislation having significant impact on small business.

Businesses, both in the ACT and across Australia, have expressed concern about regulatory overlap and duplication that has significant financial and time cost impacts. Often this experience can involve the need to deal with different regulations and different regulators for the same, or a similar activity. Stakeholders seek simplified business to government interactions and a 'tell us once' approach.

A review would identify areas of overlap or duplication which could be streamlined to make processes simpler and more transparent. This project aligns with Commonwealth government objectives to streamline processes and eliminate duplication.

This review would involve further consultation with business to identify any other areas where regulatory overlap may exist and where its removal would have practical benefits for business.

#### **Project 6 – Regulator Performance**

Introducing legislation to improve regulator performance.

Ensuring continuing improvement and standards for regulator best practice and performance will benefit business. This could be achieved through changes to legislation to support better regulatory settings and practices. The Productivity Commission has noted studies showing that up to 50% of unnecessary costs for business are due to how regulators implement regulations.

Stakeholders frequently request guidance for regulatory compliance to be provided in a more accessible form. Stakeholders have frequently requested clearer guidance for regulatory compliance such as improved checklists and information, provided in a more accessible form such as a streamlined online portal.

The concept of 'stewardship' has been promoted in several jurisdictions. The objective is to impose duties on regulators to assess effectiveness and appropriateness of legislation and regulatory practice on a regular basis.

The Productivity Commission has noted that better outcomes for small businesses and the community are achieved when regulators have a range of tools that enable them to tailor their responses to breaches (or potential breaches) of regulation in a proportionate way, rather than having to rely solely on initiating legal proceedings.

## APPENDIX E – JURISDICTIONAL SCAN

The following desktop scan includes an exploration of how elements of a regulatory quality framework manifest in other jurisdictions.

### A government commitment

The Organisation of Economic Co-operation and Development (OECD) emphasises the need for government to commit to a policy for regulatory quality.

The 2012 *Recommendation of the Council on Regulatory Policy and Governance* called on all members to:

“Commit at the highest political level to an explicit whole-of-government policy for regulatory quality. The policy should have clear objectives and frameworks for implementation to ensure that, if regulation is used, the economic, social and environmental benefits justify the costs, the distributional effects are considered, and the net benefits are maximised”.<sup>20</sup>

In unpacking this recommendation, the OECD calls for governments to develop and maintain a strategic capacity to ensure regulatory policy remains relevant and effective. A part of this capacity should be a regulatory management system which employs both *ex ante* impact assessment (that is, prior to implementing regulation) and *ex post* evaluation to assess performance and outcomes. Consultation on the design, development and revision of regulations underpins the management system.

At the heart of the OECD's recommendation is the need for a government-endorsed framework which puts in place measures to ensure that regulation is proportionate, effective, and clear. Commonly, this commitment is given expression through a set of principles developed by governments to guide best practice in regulation-making.

Examples of these principles from the Commonwealth and New South Wales are discussed below. In all cases, the principles include the OECD's requirements for an *ex ante* assessment, an *ex post* evaluation and stakeholder involvement.

### Aspiration – Best Practice Principles

The 2007 Council of Australian Government (COAG) agreed principles for best practice regulation contain several elements that are fundamental to ensuring regulation is proportionate, effective, and clear. Many Australian jurisdictions either explicitly align their own regulatory policy with the COAG principles,<sup>21</sup> or have

<sup>20</sup> OECD Regulatory Policy Committee, 2012. *Recommendation of the Council on Regulatory Policy and Governance*. Organisation for Economic Co-operation and Development, p.4.

<sup>21</sup> See, for example, the Queensland Government *Guide to Better Regulation* [online] Available at: <<https://s3.treasury.qld.gov.au/files/Queensland-Government-Guide-to-Better-Regulation-May-2019.pdf>>

developed their own aspirational statements of best practice to guide stock and flow management as well as regulatory performance.

#### **Box 2 – COAG-agreed Principles of Best Practice Regulation**

**Principle 1:** Establishing a case for action before addressing a problem.

**Principle 2:** A range of feasible policy options must be considered, including self-regulatory, co-regulatory and non-regulatory approaches, and their benefits and costs assessed.

**Principle 3:** Adopting the option that generates the greatest net benefit for the community.

**Principle 4:** In accordance with the Competition Principles Agreement, legislation should not restrict competition unless it can be demonstrated that:

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

**Principle 5:** Providing effective guidance to relevant regulators and regulated entities in order to ensure that the policy intent and expected compliance requirements of the regulation are clear.

**Principle 6:** Ensuring that regulation remains relevant and effective over time.

**Principle 7:** Consulting effectively with affected key stakeholders at all stages of the regulatory cycle.

**Principle 8:** Government action should be effective and proportional to the issue being addressed.

Independent reviews of good regulation in NSW have recommended that regulation cannot be a 'set and forget' exercise and requires regular and frequent engagement and iterative improvement. In 2019, NSW Treasury released the *NSW Government Guide to Better Regulation*,<sup>22</sup> building on the NSW Better Regulation Principles and policy-making requirements that have been in place since 2008.

All new and amending regulatory proposals in NSW are required to demonstrate application of the Better Regulation Principles and the 2019 guide provides a resource for policy makers to consider and demonstrate how the principles are reflected in proposals.

#### **Box 3 – New South Wales Better Regulation Principles**

**Principle 1:** The need for government action should be established. Government action should only occur where it is in the public interest, that is, where the benefits outweigh the costs.

**Principle 2:** The objective of government action should be clear.

**Principle 3:** The impact of government action should be properly understood, by considering the costs and benefits (using all available data) of a range of options, including non-regulatory options.

**Principle 4:** Government action should be effective and proportional.

**Principle 5:** Consultation with business, and the community, should inform regulatory development.

**Principle 6:** The simplification, repeal, reform, modernisation or consolidation of existing regulation should be considered.

**Principle 7:** Regulation should be periodically reviewed, and if necessary reformed, to ensure its continued efficiency and effectiveness.

<sup>22</sup> NSW Government Treasury, 2019. *NSW Government Guide to Better Regulation*. Sydney.

## Components and tools

Regulation is likely to be 'better' when there are processes and institutions in place to:

- manage the existing stock of regulation;
- manage the flow of new regulation; and
- continuously improve regulator culture and capability.

The regulatory system should ensure that these components are performed in a coordinated and cost-effective way. Linking back to the OECD recommendation, government commitment to the management of each component is essential.

Jurisdictions deploy a variety of tools and approaches to address the components and some of these approaches are described here.

Not all jurisdictions have been included in this brief survey, and it is not intended to draw conclusions about the merits of different approaches. The information has been collated as an information source on what a better regulation framework *can* look like, not what they *must* look like.

### Commonwealth

The Australian Government continues to play a leading role in describing best practice for regulation-making and regulatory practice in Australia. The Commonwealth brings together the components of a regulatory quality framework through its newly created Deregulation Agenda. The agenda 'will focus on reducing barriers affecting Australia's productivity growth and competitiveness. It will also make sure regulations are well-designed, fit-for-purpose and support businesses to grow and create jobs'.<sup>23</sup>

The deregulation agenda includes:

- key reforms that have been identified to manage the existing stock of regulation:
  - enhancing occupational mobility;
  - modernising business communications;
  - streamlining excise administration; and
  - streamlining overlapping regulation.
- management of the flow of new regulation through the Office of Best Practice Regulation (OBPR):
  - the Office works with departments and agencies to produce detailed, evidence-based assessments of complex policy issues.
  - According to OBPR, best practice regulation is achieved through the rigorous application of a Regulatory Impact Assessment framework. By applying this approach, the Commonwealth Government is looking to ensure that all policy decisions are evidence based and that "regulation is never adopted as the default solution, but rather introduced as a means of last resort."
  - A regulation impact statement (RIS) is required where the impacts of a proposal are more than minor. Where Cabinet is the decision maker, a RIS is always required.
- the creation of a regulator performance function to increase accountability, promote best practice, build the professionalism of regulators and support cultural change. Best practice principles have been developed to underpin the Australian Government's expectation of regulator performance. Key features include:
  - adoption of a 'stewardship' approach. Stewardship assists governments to manage the stock of existing regulation by placing responsibility on Ministers, Secretaries and Agency Heads to ensure that regulation and regulatory approaches remain fit for purpose. Stewardship assists governments to identify proposal for regulatory reform.

<sup>23</sup> <https://deregulation.pmc.gov.au/>

- Ministerial statements of expectation and regulator statements of intent to establish the policies and priorities for the regulator.

An additional tool to manage the stock of regulation is the Commonwealth sunseting framework. Many legislative instruments<sup>24</sup> are automatically repealed after 10 years—this process is known as sunseting and is governed by the Commonwealth’s *Legislation Act 2003*. The Productivity Commission notes that “the logic supporting sunseting is that much regulation inevitably has a ‘use-by date’ when it is no longer needed or will require significant modification. But without a trigger to reassess its utility, at least some of this regulation will inevitably remain in place.”<sup>25</sup>

## New Zealand

New Zealand is recognised for its comprehensive and an innovative approach to regulatory quality.

### **Better for Business (B4B)**

The centrepiece of its framework is the B4B program that is part of the Minister Business, Innovation and Employment. B4B is a comprehensive institutional response from government that reaches across managing the stock and flow of stock of regulation as well as regulator capacity and capability.

B4B describes itself as the ‘voice of Kiwi business.’ Insights into the experiences of businesses have dealing with government are gleaned through in-depth research and analysis. B4B then works with government agencies by sharing and highlighting these insights with policy and operational teams within the agencies. The outcome is the reduction of the cumulative impact of compliance on small businesses.

The various government initiatives are mapped across a spectrum from ‘avoiding burdens for small business’ (top of the cliff) through to ‘remediating burdens’ (bottom of the cliff).

#### **Top of the cliff**

Top of the cliff initiatives include a regulatory impact assessment process aimed at achieving ‘better new regulation’. The focus of this initiative is to ensure that adopts a small business lens to policy. Another measure at this end of the spectrum is the ‘Better Rules Better Outcomes’ which is aimed at simplifying existing regulation. This is a human-centred design process for legislation and regulation. The Better Rules methodology aims to assist people and businesses to understand, benefit from and comply with legislation in an automated way. The Better Rules approach allows for legislation to be developed in software code as well as written language from the start. It avoids the need for later translation of legislation into software language, avoiding the risk of incorrect interpretation. The Better Rules methodology will be particularly helpful for activities like calculating eligibility criteria for a benefit, and financial reporting obligations. It is the human-centred design (HCD) approach which is embedded in a rules as code approach which is valuable and capable of delivering significant benefits to business.

#### **Bottom of the cliff**

Initiatives to remediate burdens (bottom of the cliff) include the ‘Better comms and support’ responses such as New Zealand’s Business website<sup>26</sup> which provides a central point for all business programs, information and support including ‘How to Start a Business’.

### **Regulatory Technology**

<sup>24</sup> The Sunseting framework was reviewed in 2017 and it was recommended that the sunseting framework not be extended to Acts.

<sup>25</sup> <https://www.pc.gov.au/inquiries/completed/regulation-reforms/report> page XVIII

<sup>26</sup> <https://www.business.govt.nz/>

New Zealand has invested in a comprehensive regulatory technology (RegTech) solution which assists in alleviating and remediating regulatory burden. Business Connect<sup>27</sup> is a digital service platform which enables businesses to:

- access and manage their business information from one place;
- use the data government already holds about them – their New Zealand Business Number (NZBN) – which will pre-populate the information they’re most often asked to share;
- re-use the information they’ve previously provided to government;
- connect digitally across both local and central government; and
- more easily meet their compliance obligations.

### New South Wales

The NSW Government states that it is committed to continuous improvement of its regulatory policy framework to support and enhance opportunities for improved productivity.

Following an Independent Review of the NSW Regulatory Policy Framework in 2017, the New South Wales Government assigned responsibility for regulatory policy to the Treasurer and appointed a Commissioner for Productivity.<sup>28</sup>

In the context of economic recovery from COVID-19, the NSW Productivity Commission released in 2021 the *Productivity Commission White Paper*<sup>29</sup> identifying 60 opportunities to ‘reboot’ productivity growth. The white paper identifies four foundations upon which productivity growth should be built: talent; innovation; housing; and infrastructure. The scope of the reform agenda in the White Paper is broad, with recommendations that range from education and schools to energy and taxes and housing and infrastructure.

Of central interest to the ACT Better Regulation Taskforce is the Paper’s consideration of the costs and opportunities of regulation in a context of recovery and productivity growth. The White Paper argues that better regulation will:

- reduce unjustified restrictions on conduct;
- remove outdated, inconsistent, or unnecessary rules;
- reduce barriers to entry or price controls in network industries or occupations; and
- reduce compliance costs.

Recommendations for forward-looking regulation that supports competition and innovation include specific areas like drones, personal mobility devices and Automatic Mutual Recognition, but also whole-of-system reforms such as amending legislation to translate rules to code where appropriate and adopting a negative licensing approach for low-risk licenses and activities.

Building on the White Paper, the NSW Productivity Commission recently released a discussion paper on regulating emerging industries which further articulates clear principles to underpin regulation in areas of technological change, to achieve safety, promote innovation and support industry. These principles propose that regulation should:

- be outcomes-focused – neutral to technology and focused on underlying objectives;
- promote a culture of regulatory experimentation – supporting trials, pilots and innovation; and
- be regularly monitored and reviewed – to assist in identifying barriers in the existing stock of legislation to the adoption of emerging technologies and ensure regulation remains fit for purpose.

<sup>27</sup> <https://businessconnect.govt.nz/>

<sup>28</sup> <https://www.treasury.nsw.gov.au/sites/default/files/2018-02/Independent%20Review%20of%20the%20NSW%20Regulatory%20Policy%20Framework%20final%20report.pdf>

<sup>29</sup> NSW Government, 2021. *Productivity Commission White Paper - Rebooting the Economy*. Sydney.



As previously noted, New South Wales manages the flow of regulation through the application of best practice principles for better regulation to new and amending policy proposals.

## Victoria

Better Regulation Victoria (BRV) works with the Victorian Government and community to support the analysis, design, and implementation of best-practice regulation. It supports departments and agencies, and works closely with Victorian regulators, to deliver continuous regulatory improvements.

Working with the Commissioner for Better Regulation and the Red Tape Commissioner, BRV:

- Assesses the adequacy of regulatory impact assessments:
  - i.e., engaging with other departments and agencies undertaking impact assessments;
- Assists with the design, application, and administration of regulation
  - i.e., providing training on preparing impact assessments for public sector staff, and running workshops on impact assessments of complex issues
- Convenes the Regulators' Forum
  - i.e., a forum which brings together staff from regulators and relevant departments, whereby best practices can be shared
- Advises on and investigates complaints about competitive neutrality
  - i.e., upholding competitive neutrality between government and private enterprises providing the same service; and
- Research other regulatory issues as directed by the Treasurer or the Secretary of the Department of Treasury and Finance.

BRV also communicates with Victorian businesses and not-for-profits to identify improvements or ways to reduce unnecessary regulation, including:

- Opportunities to cut red tape, with a 25% red tape reduction target (timeframe unspecified).
- Improvements to regulators' dealings with business, including the design and implementation of regulation.
- Areas of regulatory overlap.
- 'Hotspots' where regulatory reforms can 'unlock' economic activity.
- Improvements to regulation administration, such as removing unnecessary burdens.

## Queensland

The Queensland Government established a Better Regulation Taskforce<sup>30</sup> under its small business advisory council to provide periodic reports to Government on opportunities for regulatory reform, with a focus on specific sectors and engagement directly with business groups. Recommendations vary across the reports, but some key themes emerge as they call for:

- consistent and risk-based approaches to rules and regulations; and
- clear, specific guidance material for regulated entities.

Like most other jurisdictions in Australia,<sup>31</sup> Queensland has a sunseting regime and has also established the Office of Best Practice Regulation which administers the Queensland Government's regulatory review requirements, and aims to ensure regulation is necessary, well-designed and fit-for-purpose.

<sup>30</sup>Department of Employment, Small Business and Training. 2022. *Better Regulation Taskforce*. [online] Available at: <<https://desbt.qld.gov.au/small-business/advisory-groups/taskforce>> [Accessed 21 February 2022].

<sup>31</sup>Essentially, the Commonwealth, Queensland, Victoria, South Australia, and Tasmania's regulations/ subordinate legislation automatically expire (or sunsets) ten years after coming into force. The precise date of this differs between jurisdictions. New South Wales is similar, but regulations/ subordinate legislation automatically expire after five years.

## APPENDIX F - THE COMMONWEALTH'S DEREGULATION AGENDA

The ACT's approach to better regulation must take account of the Commonwealth suite of initiatives because:

- there are several valuable and worthwhile initiatives in this suite that can contribute to better regulation in the Territory including:
  - lifting regulator performance, capability and culture; and
  - streamlining overlapping regulation.
- we can leverage learnings from our work on the Commonwealth agenda for our own 'better regulation' agenda, for example:
  - our understanding of the ACT licensing landscape through our work on AMR could be used to support further reforms in this area.
- some of these initiatives apply automatically to the ACT, including:
  - improving occupation mobility; and
  - modernising business communication.

As a result, the Commonwealth's Deregulation Agenda will continue to shape the ACT Government's Better Regulation forward work program. Taskforce resources will continue to be devoted to the Commonwealth Deregulation workstream as these proposals are developed and implemented.

The Taskforce already represents the ACT Government on Commonwealth State groups for improving occupational mobility, modernising business communication and the reform of State and territory fundraising laws which is one of the projects identified under the workplan for streamlining overlapping regulation.

Like all governments, the Commonwealth has recognised the need to review its stock of regulation over time to remove barriers affecting Australia's productivity growth and competitiveness. Its most recent 'congestion busting' agenda commenced pre-COVID in 2019. However, in June 2020, the Deregulation Taskforce was moved to the Department of Prime Minister and Cabinet which renewed its deregulation agenda to 'zero in on areas to assist with COVID-19 economic recovery.'<sup>32</sup>

The Commonwealth's Deregulation Agenda:

- examines regulation from the viewpoint of business;
- focuses on regulator culture as much as the content of regulation; and
- builds on regulatory changes made as a result of COVID-19.

### Priorities

[Five priority workstreams](#) have been identified to date by the Commonwealth for this Agenda.

#### Lifting regulator performance, capability, and culture

Phase One of this work program was delivered in June 2021. The centerpiece of this work is the [Regulator Performance Guide](#) which establishes the Commonwealth Government's expectations of regulator performance and reporting via three best practice principles.

Phase Two of the work program is focused on promoting and supporting regulators and policy agencies to embed the Regulator Performance Guide. This includes a refreshing of Ministerial Statements of

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<sup>32</sup> <https://www.pm.gov.au/media/address-%E2%80%93-ceda%E2%80%99s-state-nation-conference>

Expectation and a stocktake of Australian Government regulatory functions to provide visibility of the regulatory landscape.

### Improving occupation mobility

The Automatic Mutual Recognition of Occupational Registrations (AMR) scheme removes the need for people to apply and pay for an additional registration or licence when working in another state or territory, saving them time and money.

AMR came into effect on 1 July 2021. It applied automatically in the ACT from that date. As a transitional arrangement, most of our occupational licences are temporarily exempt from AMR until 1 July 2022 as we work through a number of implementation challenges.

### Modernising business communication

This priority area focuses on identifying regulation that has not kept pace with digital communications and therefore adds a compliance cost to business. Analysis and consultation in relation to statutory declarations and deeds is underway to ensure that the regulations that govern the execution of these documents are understated, fit for purpose, and reflect the way Australians want to engage and communicate digitally. As the Commonwealth's *Statutory Declarations Act 1959* applies in the ACT, any amendments made to that Act because of this initiative will flow through to the ACT.

### Streamlining excise administration

This initiative is focused on streamlining the administration of excise and excise-equivalent customs duty regimes by the Australian Tax Office and Australia Border Force. A review of will be undertaken by the Commonwealth to identify ways to cut regulatory overheads for business.

### Streamlining overlapping regulation

Under this priority, the Commonwealth is looking to partner with jurisdictions on practical projects to reduce unnecessary compliance costs to business when meeting 'overlapping' regulatory obligations between different agencies or governments.

The [ten projects](#) are intended to align with three key messages heard from business around the importance of:

- only telling governments once;
- leveraging trusted overseas standards and expertise; and
- providing one regulatory experience across the economy.

While the ACT is not yet seeking to partner with the Commonwealth on these projects, they will have significant implications for ACT businesses, for example, streamlining business registration nationally and streamlining business reporting to enable the pre-filing of business payroll tax lodgements.

The Taskforce is part of the cross-jurisdictional working group on state and territory fundraising law reforms which is one of the ten projects listed in the workplan.

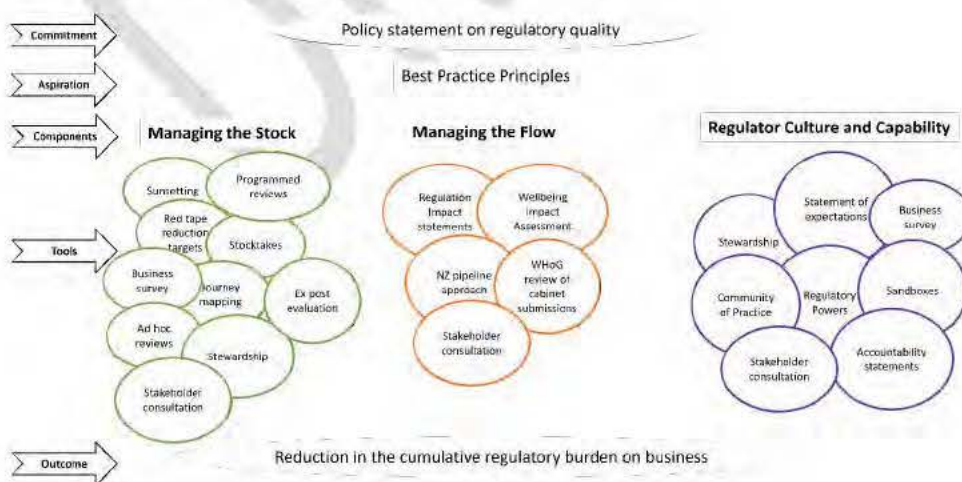
## APPENDIX G – REGULATORY QUALITY FRAMEWORK

Our analysis of regulatory reform approaches across Australia and abroad has shown that there is no single 'right way' to improve regulatory quality ([Appendix E](#)). Each jurisdiction has its own approach, processes, and arrangements to suit the specific regulatory landscape. What is common, however, is a recognition that achieving best practice and better regulation is usually underpinned by a framework that focuses on regulatory quality. The analysis suggests that there are a set of fundamental elements that underlie

regulatory reform and support a robust regulatory quality framework. These are depicted in Figure 2 and include:

1. a government **commitment** to regulatory quality;
2. an **aspirational statement of principles** to ensure that regulation is proportionate, effective, and clear;
3. an understanding that a regulatory quality framework has three components, each of which must be addressed in a coherent and co-ordinated way to ensure regulator quality:
  - o **managing the stock** of regulation to ensure it remains fit for purpose and reflective of best practice;
  - o **managing the flow** of new regulation to ensure regulation-making is guided by robust processes that consider evidence, impact, risks, and benefits; and
  - o **regulator culture and capability** which enables continuous improvement, achieves good regulatory outcomes, effectively engages with harms, and supports regulated entities to achieve compliance;
4. the deployment of **regulatory management tools** to address each of these three components. These tools must be fit for purpose and relevant to the context of the jurisdiction.

Figure 3: Regulatory Quality Framework Fundamentals



The ACT has in place some key elements of the fundamentals identified in our analysis. These appear across regulatory schemes, administrative units, the statute book and policies and procedures. They reflect the Government's commitment to regulatory practice, which balances harm minimisation with the other objectives and interests of the community.

There is always opportunity for improvement as the Better Regulation program progresses in the ACT and it is important to consider 'what should the elements of an ACT Regulatory Quality Framework be?' Some current, foundational elements and regulatory management tools to draw on are summarised below (Box 4).

#### Box 4 – ACT foundational elements for Better Regulation

- The ACT has a dedicated ministerial portfolio for Better Regulation and has funded a Better Regulation Taskforce to make it easier to start, run and grow a business. This initiative works in concert with the Economic Development portfolio and the significant program of business support delivered throughout the COVID-19 pandemic.
- Access Canberra was established to provide a one-stop shop for ACT Government customer and regulatory services and to make access for the community to Government services easier, simpler and faster. Access Canberra provides over XXXX different services through online, shopfront and in-person channels.
- Access Canberra actively engages with businesses, community groups and individuals to identify areas to reduce red tape and improve Government services. Access Canberra is often the first point of contact for individuals, organisations and businesses dealing with the ACT Government.
- The structure of Access Canberra as the primary regulatory agency of the ACT Government, supports the provision of effective guidance to regulated entities by simplifying the interaction of business and community with Government, as well as provides opportunities to reduce duplication, streamline processes and join up functions.
- Access Canberra commits to several approaches which align with the principles of better regulation including an approach to regulatory compliance and enforcement that is risk based. It applies risk-based compliance approach to ensure that resources are targeted to where the risks of harm, unsafe practices or misconduct are the greatest, thereby strengthening its capacity to take action where the community and the environment are most at risk.
- Access Canberra encourages compliance through education and awareness.
- Access Canberra deploys a range of tools to address non-compliance with the laws that it enforces.
- The *Legislation Act 2001* requires the preparation of Regulatory Impact Statements to accompany certain types of proposed subordinate laws or disallowable instruments. Section 35 outlines the required content of these statements, which includes an assessment of costs and benefits; a statement of the objectives being met through the law; and the options that were considered to achieve these objectives.
- Some regulatory frameworks, such as the regulation of construction licensing under the *Construction Occupations (Licensing) Act 2004*, include as a tool supporting better practice in regulatory performance and capability, a Ministerial statement of expectations whereby the responsible Minister can, in consultation with the registrar, make clear government expectations in relation to functions of the regulator – within appropriate limitations to preserve the independence of the regulatory function.

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- The ACT Government is using the Wellbeing Framework and the information it provides to inform Government priorities, policies, and investment decisions – including through Budget and Cabinet processes.
- [Evaluation initiative?]

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DRAFT

# Better Regulation 2 Year Work Program

Policy and Legislation

**We will put in place a best practice procurement framework for SMEs**

- Review of procurement legislation, policies and administrative procedures with an SME lens

**We will enhance labour mobility**

- Ready the ACT for the commencement of automatic mutual recognition of occupational licensing.

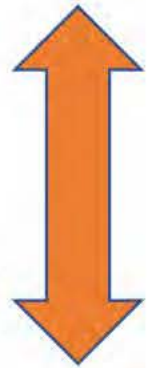
**We will manage the stock of existing regulation**

**We will make improvements to existing frameworks**

- Employment agents licensing
- Modernise the execution of statutory declarations and deeds
- Model Rules for Incorporated Associations
- Removal of references to outmoded payment methods
- Responsible service of alcohol improvements

**We will undertake industry-focused review and reform**

- review the legislative, regulatory and administrative arrangements for the nighttime/entertainment economy



Business Experience and Regulator Performance

**Regulator engagement will provide clear information and tailored support**

**Regulators will clearly communicate regulatory objectives & duties on business**

- Developing information resources, including consolidation of web material and new stand-alone toolkits, that:
  - make clear the regulatory outcomes and the harms we seek to minimise – the value of compliance;
  - explain how we are structured and who to contact;
  - Provide clear guidance on regulatory obligations, requirements and steps to start and run a successful business
  - Support business to quickly find the information they need, and the level of support that suits their circumstances.

**Government will provide tailored support to navigate barriers, requirements and find ways to say 'yes'**

- Expansion of existing services to introduce a dedicated, proactive business support team to work one-on-one with business to navigate, educate and problem solve. This would include working with existing or new and emerging businesses to find solutions or enable innovation.
- We will be clear on the harms and risks that set our requirements, remove barriers where we can and work with you to support innovation.

**Business will only tell us once**

- The Taskforce will work iteratively to identify opportunities to streamline processes, reduce overlap and duplication for business across ACT Government.

**We will better understand the experiences of business**

- Survey of business sentiment to measure the quantity and quality of interactions of business with government.
- User experience mapping of key business personas
- Pilot a model for human-centred design for new regulation

# Cabinet Better Regulation 2 Year Work Program

Policy and Legislation

**We will put in place a best practice procurement framework for SMEs**

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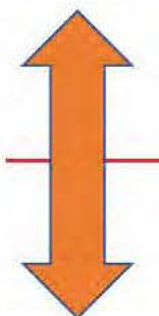
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- Model Rules for Incorporated Associations
- Removal of references to outmoded payment methods
- Responsible service of alcohol improvements

**We will undertake industry-focussed review and reform**

- review the legislative, regulatory and administrative arrangements for the nighttime/entertainment economy



Business Experience and Regulator Performance

**Regulator engagement will provide clear, targeted information and tailored support**

**Regulators will clearly communicate regulatory objectives & duties on for business**

- Improve and Developing information resource target information so it is relevant to business and provides: es, including consolidation of web material and new stand-alone toolkits, that:
  - make clear the regulatory outcomes and the harms we seek to be minimised – the value of compliance;
  - key explain how we are structured and who to contact and where to go for information and support;
  - Provide clear guidance, connections and support about on regulatory obligations and requirements and steps to start and run a

**Government will provide tailored support to navigate-meet regulatory barriers, requirements (i.e. say 'yes') and find-find waysways to remove regulatory barriers to business to say 'yes'**

- Introduce a Expansion of existing services to introduce a dedicated, proactive business support team to educate and problem solve, work one on one with business to navigate, educate and problem solve. This would include working with existing or new and emerging businesses to find solutions or and enable innovation.
- We will be clear on the harms and risks that set our requirements, remove barriers where we can and work with you business to

**We will better understand the experiences of business**

- Survey of business sentiment to measure the quantity and quality of interactions of business with government.
- User experience mapping of key business personas
- Provide real-time feedback following proactive engagement with business to regulators and policy makers to ensure ongoing improvement and targeted business support.
- Pilot a model for human-centred design for new regulation.
- Feedback to business what we are hearing and seeing through compliance activity and engagements to support transparent engagement.

**Business will only tell us once**

- The TaskforceWe will work iteratively to identify and act on opportunities to streamline processes, reduce overlap and duplication for business across ACT Government.
- We will better use data to inform regulatory focus and protections.

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**Cabinet**  
**Better Regulation 2 Year Work Program**

***ACT's Better Regulation Agenda – Making it easier to start, run and grow a business***

The ACT Government is putting in place the best settings for business recovery, longer term growth and regulation in the ACT. The ACT Government is making government-business interactions better, faster and simpler through identifying and making improvements to the rules, regulations, government processes and available information and supports for business.

Two key streams of focussed government reform action will include:

- Policy and Legislation – making continual improvements to the rules, regulations and processes; and
- Business Experience and Regulator Performance – making government-business interactions better, faster and simpler.

**POLICY AND LEGISLATION – IMPROVING RULES, REGULATIONS AND PROCESSES**

Informed by jurisdictional analysis, engagements with business, and review of key legislation we will:

**Enhance Labour Mobility**

- Ready the ACT for the commencement of automatic mutual recognition of occupational licensing.

**Put in place a Best Practice Procurement Framework for Small and Mediums Enterprises**

- Review procurement legislation, policies and administrative procedures with an SME lens.

**Undertake stock management through improvements to existing frameworks**

Make improvements to existing frameworks by amending existing legislative and regulatory arrangements for:

- the execution of statutory declarations and deeds
- model rules for Incorporated Associations
- references to outmoded payment methods in legislation
- training requirement for the responsible service of alcohol framework.

**Undertake stock management through industry focussed review and reform**

- Review the legislative, regulatory and administrative arrangements for the nighttime/entertainment economy.
- Review employment agents licensing

## BUSINESS EXPERIENCE AND REGULATOR PERFORMANCE – MAKING GOVERNMENT-BUSINESS INTERACTIONS BETTER, FASTER AND SIMPLER

We will:

### Better understand the experiences of business in dealing with government and simplify government-business interactions

Through the following activities, we will continue to have a better understanding of the experiences of business in dealing with government and identify opportunities to simplify government-business interactions:

- Develop a survey of business sentiment to measure the quantity and quality of interactions of business with government over time.
- Map the end-to-end business user experience.
- Provide real-time feedback following proactive engagement with business to regulators and policy makers to ensure ongoing improvement and targeted business support.
- Pilot a model for human-centred design for new regulation.
- Feed back to business what we are hearing and seeing through compliance activity and engagements to support transparent engagement.

### Business will only need to “tell us once”

- We will work iteratively to identify and act on identified opportunities to streamline processes, reduce overlap, and duplication for business.
- We will better use data to inform regulatory focus and protections.

### Regulator engagement will provide clear, targeted information and tailored support

We will ensure that business interactions with government are better, faster and simpler by providing clear, targeted business information and tailored support.

#### Regulators will clearly communicate regulatory objectives & duties on for business

- We will improve and target ~~develop~~ information so it is relevant to business and provides resources, including a consolidation of web material and new stand-alone toolkits, that:
  - make clear the regulatory outcomes and the harms we seek to to be minimised – the value of compliance;
  - explain how we are structured and who key contacts and where to go for information and support;
  - provide clear guidance, connections and support about regulatory -on-regulatory obligations and requirements and steps to

#### Government will provide tailored support to meet regulatory requirements (i.e. say ‘yes’) and find ways to remove regulatory barriers to business, navigate barriers, requirements and find ways to say ‘yes’

- We will expand existing services to introduce a dedicated, proactive business support team to work one-on-one with business to navigate, educate and problem solve. This would ~~will~~ include working with existing or new and emerging businesses to find solutions on and enable innovation.
- We will be clear on the harms and risks that set our requirements, remove barriers where we can and work with you to support

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Provide real-time feedback to regulators and policy makers following proactive engagement with business to ensure ongoing improvement and targeted business support?

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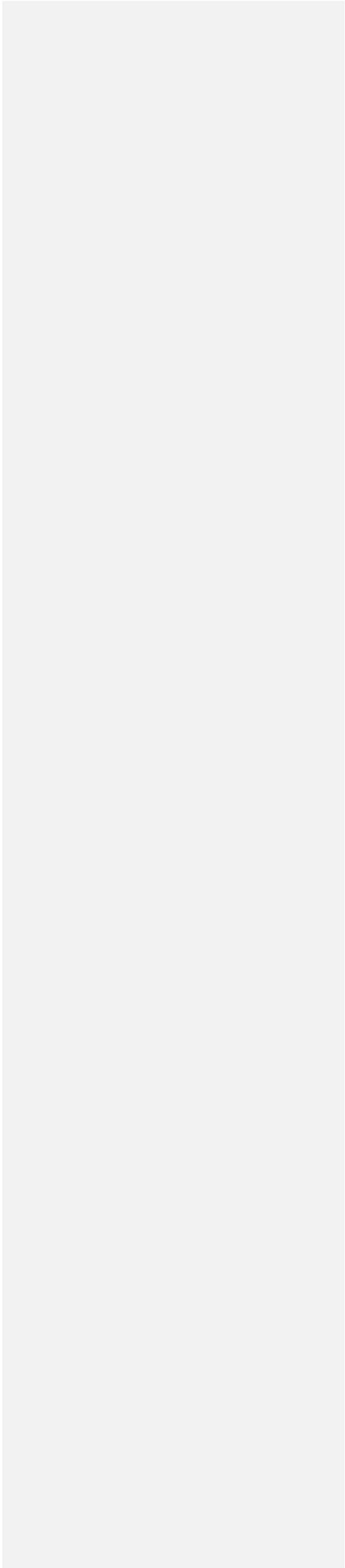
It goes to early/proactive engagement with business and upfront triaging of issues. This is about better information / communication / relationship building with business.

*Early/proactive engagement and upfront triaging of issues?*

*Q. Should this go under 'regulators will clearly communicate objectives for business'?*

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**ACT**  
Government

# Discovery Phase Report

## Better Regulation Taskforce

April 2022

Chief Minister, Treasury and Economic Development Directorate

Better Regulation Taskforce

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# INTRODUCTION

## Background

The Better Regulation Taskforce (the Taskforce) was established as part of the ACT Government's response to the COVID-19 pandemic. The aim of the Taskforce is to help drive Canberra's recovery from COVID-19 and support long term economic growth by putting in place best practice regulatory settings.

The Taskforce's initial and primary focus is on making it easier to do business in the ACT. The Taskforce will support business to start, run and grow by putting in place better regulatory settings, and simplifying interactions between business and government. This is a three-phase program of whole of government work over 2.5 years led by the Taskforce. This includes a Discovery Phase, Analysis and Recommendations Phase, and Implementation Phase.

Across the three phases of the better regulation work program, the ACT Government will consult extensively with stakeholders to explore, validate, test and revise ideas and opportunities for reforms to regulation. Due to the changing context and conditions of the COVID-19 pandemic, the approach to delivery of this program has and will continue to be adaptive and sensitive to the changing context across these phases.

## Purpose

The purpose of this report is to reflect on the Discovery Phase. This includes outlining:

- the multifaceted approach the Taskforce took to understanding the changes to be made to achieve best practice regulation, and improve business user experiences when interacting with ACT Government;
- the Taskforce's findings across the Discovery Phase activities; and
- the proposed ACT Government better regulation work program to make it easier to start, run and grow a business in the ACT.

## The ACT Economic and Business landscape and COVID-19 impacts

### Economic Growth

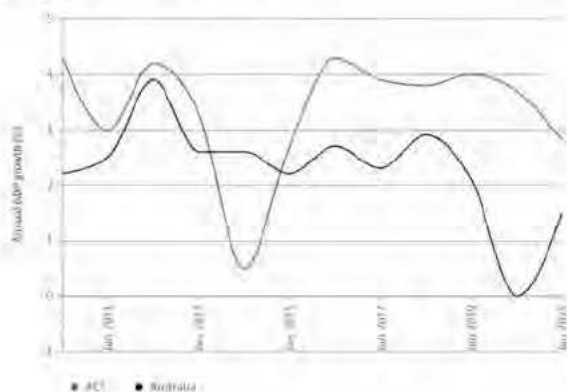
The ACT is both one of the smallest and strongest economies in the country. As at November 2021, it contains a population of 432,300<sup>1</sup> with over 31,000 businesses<sup>2</sup> and has a gross state product (GSP) of over \$43.3 billion.<sup>3</sup> The ACT's economy has grown strongly and steadily since 2015.

<sup>1</sup> Australian Bureau of Statistics. 2022. *National, state and territory population, June 2021*. Available at: <<https://www.abs.gov.au/statistics/people/population/national-state-and-territory-population/latest-release>> [Accessed 21 February 2022].

<sup>2</sup> Australian Bureau of Statistics. 2022. *Counts of Australian Businesses, including Entries and Exits, July 2017 - June 2021*. [online] Available at: <<https://www.abs.gov.au/statistics/economy/business-indicators/counts-australian-businesses-including-entries-and-exits/latest-release#key-statistics>> [Accessed 21 February 2022].

<sup>3</sup> 5220.0 Australian National Accounts: State Accounts, Table 1. Gross State Product, Chain volume measures and current prices.

**Figure 1: Economic growth in ACT - 2010-2021<sup>4</sup>**



### ACT Business landscape

The ACT has a unique business landscape that sets it apart from other Australian jurisdictions. The Australian Bureau of Statistics demonstrates a 5.8 per cent increase in the number of businesses in the ACT during the 2020-2021 financial year.<sup>5</sup> This was the largest percentage growth in any state or territory with an increase of 1,732 business, bringing the total active ACT businesses to 31,499 total. Of this amount in this period, the ACT had 11,437 small businesses (1-19 employees) and 18,517 non-employing businesses operating.<sup>6</sup> These types of businesses combined, make up over 95% of total businesses in the ACT. In 2020-2021, the survival rate of small and non-employing businesses varied across industries, with an average survival rate of 55.1% for non-employing businesses and 70.5% for small businesses (1-19 employees).<sup>7</sup>

### COVID-19 Impacts

Prior to the COVID-19 pandemic, the ACT had strong economic growth and business performance. The COVID-19 pandemic has and continues to impact the ACT in a myriad of ways. The impact of the pandemic in Australia and the ACT in 2020 was extensive, particularly on Micro, Small and Medium-Sized Enterprises. The industries significantly impacted included Construction, Retail Trade, Accommodation and Food Services, and Arts and Recreation Services.

### Emerging from the pandemic in 2020

The ACT performed strongly comparatively in 2019-20, avoiding a COVID-19 recession. Emerging from the initial shock of the pandemic at the end of 2020, the ACT had strong economic recovery and business participation. Particularly it saw recovery in Accommodation and Food Services, with growth subdued due

<sup>4</sup> SGS Economics and Planning Pty Ltd, 2021. *Australia's Economic Wellbeing*. [online] p.53. Available at: <[https://www.sgsep.com.au/assets/main/Publications/SGS-Economics-and-Planning\\_Australia's-Economic-Wellbeing-2021.pdf](https://www.sgsep.com.au/assets/main/Publications/SGS-Economics-and-Planning_Australia's-Economic-Wellbeing-2021.pdf)> [Accessed 21 February 2022].

<sup>5</sup> Australian Bureau of Statistics. 2022. *Counts of Australian Businesses, including Entries and Exits, July 2017 - June 2021*. [online] Available at: <<https://www.abs.gov.au/statistics/economy/business-indicators/counts-australian-businesses-including-entries-and-exits/latest-release#key-statistics>> [Accessed 21 February 2022].

<sup>6</sup> 8165.0 Counts of Australian Businesses, including Entries and Exits, June 2017 to June 2021. Released 16 December 2021. Businesses by Main State by Industry Class by Annualised Employment.

<sup>7</sup> 8165.0 Counts of Australian Businesses, including Entries and Exits, June 2017 to June 2021. Released 16 December 2021. Survival of Businesses by Main State by Subdivision by Employment Size Ranges.



to ongoing tourism constraints.<sup>8</sup> Nationally, some sectors were particularly hard hit by the emergence of COVID-19.<sup>9</sup> As of April 2020, the following sectors had experienced the most severe reductions in monthly turnover:

- Retail trade (down 23%);
- Accommodation and food services (down 38.6%); and
- Arts and recreation services (down 45.9%).

### Rise of Delta variant and lockdowns throughout 2021

The first half of 2021 was encouraging with the ACT's economy grew by 2.8% in 2020-21.<sup>10</sup> However, the sudden increase of cases across Australia led to further lockdowns in most jurisdictions which severely impacted economic recovery and business viability. Data for the September 2021 quarter shows that ACT, along with NSW and Victoria saw economic decline as a result of COVID outbreaks and associated lockdowns between July and September.<sup>11</sup> While the ACT entered lockdown under Public Health Orders following NSW, it had already been economically impacted by their lockdown. The ACT had a low drop in labour force participation during the first wave of COVID lockdowns, however the second wave of lockdowns in the ACT from August 2021 was far more severe. In the context of the discontinuation of the Federal Job-Keeper payment labour participation in 2021 fell to 79 per cent and unemployment rose to 6.2 per cent (the highest unemployment rate in the ACT since 1999).<sup>12</sup> The lockdowns saw ACT suffer the largest loss of payroll jobs (more than 10%) of any state or territory, with State final demand falling by 1.6% in the September 2021 quarter as a result.<sup>13</sup> Of the ACT's approximately 30,000 businesses, almost a third applied for COVID-19 Business Support Grants.<sup>14</sup>

ACT regulatory agencies played a key role during the lockdown period of informing and regulating businesses compliance with the public health directions. Different States and Territories took varying approaches in how they communicated to businesses the changing public health directions. Some relied extensively on online channels and strict enforcement whereas we observed that Access Canberra used a broader range of methods such as site visits as part of their engage, educate and enforce method. While recognising that the public health restrictions limited business activity, they appear to have been implemented and regulated in a way that prioritised supporting businesses to comply.

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The outdoor activation taskforce was also an interesting case example of how ACT regulatory agencies took a lead role during the period of restrictions to 'find solutions' to support businesses. Given the public health restrictions limits on indoor dining capacity, the taskforce identified and certified XX new or temporary expansions to permitted outdoor dining space.

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### COVID 'normal' throughout 2022 and beyond

The continually evolving landscape of COVID and the impact of the Omicron variant requires adaptive government responses and fit-for-purpose regulation. The 'new normal' of living with COVID and evolution of variants in 2022 and beyond will bring new challenges for ACT business, as well as fundamentally change the ways in which economic growth and business participation takes place in the Territory. The pandemic

<sup>8</sup> SGS Economics and Planning Pty Ltd, 2021. *Australia's Economic Wellbeing*. [online] p.5. Available at: <[https://www.sgsep.com.au/assets/main/Publications/SGS-Economics-and-Planning\\_Australia-Economic-Wellbeing-2021.pdf](https://www.sgsep.com.au/assets/main/Publications/SGS-Economics-and-Planning_Australia-Economic-Wellbeing-2021.pdf)> [Accessed 21 February 2022].

<sup>9</sup> <https://www.abs.gov.au/statistics/economy/business-indicators/monthly-business-turnover-indicator/latest-release#data-download>

<sup>10</sup> SGS Economics & Planning. 2022. *National economic growth hides the differing experiences across Australia's cities and regions, new report reveals*. | SGS Economics & Planning. 7 December 2021 [online] Available at: <<https://www.sgsep.com.au/publications/insights/australias-economic-wellbeing-2/>> [Accessed 21 February 2022].

<sup>11</sup> Ibid.

<sup>12</sup> SGS Economics and Planning Pty Ltd, 2021. *Australia's Economic Wellbeing*. [online] p.6. Available at: <[https://www.sgsep.com.au/assets/main/Publications/SGS-Economics-and-Planning\\_Australia-Economic-Wellbeing-2021.pdf](https://www.sgsep.com.au/assets/main/Publications/SGS-Economics-and-Planning_Australia-Economic-Wellbeing-2021.pdf)> [Accessed 21 February 2022].

<sup>13</sup> Ibid., 53.

<sup>14</sup> ACT Government, Budget 2021-2022, Budget Outlook, Canberra, October 2021, p.17. <<https://www.treasury.act.gov.au/budget/budget-2021-22/#budget-overs>>.

has changed consumer behaviours and the ways that business trade, operate, and communicate as well as demonstrated the remarkable resilience of businesses in transforming operations within short periods of time.

## WHAT IS REGULATION?

### Defining regulation

Generally, regulation is considered to encompass legally enforceable instruments made by governments that impose obligations on business and community. This is the black letter law, including legislative acts, regulations, and instruments. More broadly, some consider the term to also include quasi-legal documents, such as codes of practice, guidelines, advice, and notices. However, from our engagement we understand that government regulation is perceived by business to comprise all dealings they have with government to carry on their business, and so includes regulator culture, posture, and practice.

Regulation plays an important role in limiting harms and promoting social, economic, and environmental wellbeing. However, it also imposes costs and burdens.

### Managing the cumulative burden of regulation

Time and money spent by business on regulatory compliance is known as the burden of regulation. If the burden is too great, it may divert business away from productive activities, stifling their capacity “to innovate, be entrepreneurial and respond creatively and quickly to market opportunities or threats.”<sup>15</sup>

The Productivity Commission notes that “[business] can find it difficult to distinguish the jurisdictional source of regulatory problems...[and] often it is the accumulation of regulation that is the main problem”.<sup>16</sup> The burdens of regulation on business can be cumulative where regulation is not consistently and proactively reviewed and managed. While an additional regulatory proposal in isolation may appear to add little to business compliance requirements, when added to existing demands it may create a significant impost. The burden of regulation also has impacts for the regulator and its performance where limited resources must be allocated to initiatives that do not most effectively address risk.

Governments have endeavoured to strike the appropriate balance of achieving the legitimate aims of regulation, whilst minimising burden. Governments have sought to do this by refining how, when, and why they regulate. Varying agendas for better regulation, deregulation, best practice regulation, regulatory reform and red-tape reduction are driven by a need to rationalise the growing volume of regulation.

Tackling the cumulative burden of regulation is a complex task. It is ongoing, iterative, and reflective. It is about evaluating the current stock of regulation and it is also about managing the flow of new regulation. It involves developing principles of better regulation which can be consistently applied.

In the ACT, the pandemic introduced novel regulations, while also exacerbating the burden of existing regulatory frameworks. However, the pandemic also highlighted the productive relationships between government and business to be responsive and improve regulation and reduce burden. This formed the context and basis for which the Taskforce was established. The Taskforce sought to examine and apply the lessons learned during the COVID-19 response, such as maintaining clear and open communication, prioritising adaptability and rapid action and engaging with risk to achieve the best outcomes for business in the ACT.

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<sup>15</sup> NSW report – DC to reference

<sup>16</sup> Productivity Commission 2011, *Identifying and Evaluating Regulation Reforms*, Research Report, Canberra, p.xvii.

## APPROACH

During the Discovery Phase the Taskforce undertook a multifaceted approach to understand the changes to be made to achieve best practice regulation and improve business user experiences when interacting with ACT Government.

As set out in detail at [Appendix A](#), the Taskforce has sought answers by undertaking:

- Jurisdictional analysis;
- Engagement with business and stakeholders; and
- A wide-ranging legislative review.

Additionally, the Taskforce worked collaboratively with all other Australian jurisdictions to progress the Commonwealth's national deregulation agenda, ensuring the ACT realises the potential opportunities and benefits to be derived from the Commonwealth program.

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## FINDINGS – LEARNING FROM OTHERS

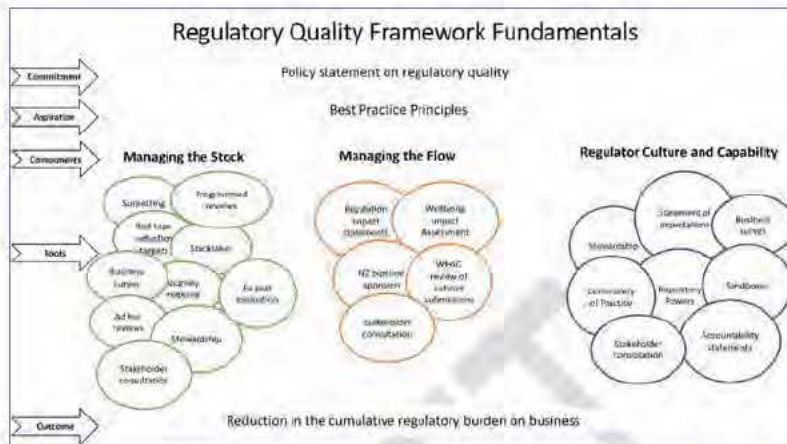
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The Taskforce, as set out in this section, has drawn on projects of regulatory reform across Australia and abroad. Based on a desktop review, this chapter examines the way in which other governments have approached regulatory reform, including the principles, processes, tools and institutional arrangements.

This analysis has shown that there is no single 'right way' to improve regulatory quality. Each jurisdiction has its own approach, processes, and arrangements to suit the specific regulatory landscape. What is common, however, is a recognition that achieving best practice and better regulation is usually underpinned by a framework that focuses on regulatory quality. The analysis suggests that there are a set of fundamental elements that underlie regulatory reform and support a robust regulatory quality framework. These are depicted in Figure 2 and include:

- a government commitment to regulatory quality;
- an aspirational statement of principles to ensure that regulation is proportionate, effective, and clear;
- an understanding that a regulatory quality framework has three components, each of which must be addressed in a coherent and co-ordinated way to ensure regulator quality:
  - managing the stock of regulation to ensure it remains fit for purpose and reflective of best practice;
  - managing the flow of new regulation to ensure regulation-making is guided by robust processes that consider evidence, impact, risks, and benefits; and
  - regulator culture and capability which enables continuous improvement, achieves good regulatory outcomes, effectively engages with harms, and supports regulated entities to achieve compliance;
- the deployment of regulatory management tools to address each of these three components. These tools must be fit for purpose and relevant to the context of the jurisdiction.

Figure 2 – Regulatory Quality Framework Fundamentals



The following desktop scan includes an exploration of how these fundamental elements of a regulatory quality framework manifest in other jurisdictions.

#### A government commitment

The Organisation of Economic Co-operation and Development (OECD) emphasises the need for government to commit to a policy for regulatory quality.

The 2012 *Recommendation of the Council on Regulatory Policy and Governance* called on all members to:

“Commit at the highest political level to an explicit whole-of-government policy for regulatory quality. The policy should have clear objectives and frameworks for implementation to ensure that, if regulation is used, the economic, social and environmental benefits justify the costs, the distributional effects are considered, and the net benefits are maximised”.<sup>17</sup>

In unpacking this recommendation, the OECD calls for governments to develop and maintain a strategic capacity to ensure regulatory policy remains relevant and effective. A part of this capacity should be a regulatory management system which employs both *ex ante* impact assessment (that is, prior to implementing regulation) and *ex post* evaluation to assess performance and outcomes. Consultation on the design, development and revision of regulations underpins the management system.

At the heart of the OECD’s recommendation is the need for a government-endorsed framework which puts in place measures to ensure that regulation is proportionate, effective, and clear. Commonly, this commitment is given expression through a set of principles developed by governments to guide best practice in regulation-making.

Examples of these principles from the Commonwealth and New South Wales are discussed below. In all cases, the principles include the OECD’s requirements for an *ex ante* assessment, an *ex post* evaluation and stakeholder involvement.

<sup>17</sup> OECD Regulatory Policy Committee, 2012. *Recommendation of the Council on Regulatory Policy and Governance*. Organisation for Economic Co-operation and Development, p.4.

## Aspiration – Best Practice Principles

The 2007 Council of Australian Government (COAG) agreed principles for best practice regulation contain several elements that are fundamental to ensuring regulation is proportionate, effective, and clear. Many Australian jurisdictions either explicitly align their own regulatory policy with the COAG principles,<sup>18</sup> or have developed their own aspirational statements of best practice to guide stock and flow management as well as regulatory performance.

### Box 1 – COAG-agreed Principles of Best Practice Regulation

Principle 1: Establishing a case for action before addressing a problem;

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Principle 2: A range of feasible policy options must be considered, including self-regulatory, co-regulatory and non-regulatory approaches, and their benefits and costs assessed;

Principle 3: Adopting the option that generates the greatest net benefit for the community;

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Principle 4: In accordance with the Competition Principles Agreement, legislation should not restrict competition unless it can be demonstrated that:

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

Principle 5: Providing effective guidance to relevant regulators and regulated entities in order to ensure that the policy intent and expected compliance requirements of the regulation are clear;

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Principle 6: Ensuring that regulation remains relevant and effective over time;

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Principle 7: Consulting effectively with affected key stakeholders at all stages of the regulatory cycle; and

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Principle 8: Government action should be effective and proportional to the issue being addressed.

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Independent reviews of good regulation in NSW have recommended that regulation cannot be a 'set and forget' exercise and requires regular and frequent engagement and iterative improvement. In 2019 NSW Treasury released the *NSW Government Guide to Better Regulation*,<sup>19</sup> building on the NSW Better Regulation Principles and policy-making requirements that have been in place since 2008.

All new and amending regulatory proposals in NSW are required to demonstrate application of the Better Regulation Principles and the 2019 guide provides a resource for policy makers to consider and demonstrate how the principles are reflected in proposals.

### Box 2 – New South Wales Better Regulation Principles

Principle 1: The need for government action should be established. Government action should only occur where it is in the public interest, that is, where the benefits outweigh the costs.

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Principle 2: The objective of government action should be clear.

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Principle 3: The impact of government action should be properly understood, by considering the costs and benefits (using all available data) of a range of options, including non-regulatory options.

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Principle 4: Government action should be effective and proportional.

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<sup>18</sup> See, for example, the Queensland Government *Guide to Better Regulation* [online] Available at: <<https://s3.treasury.qld.gov.au/files/Queensland-Government-Guide-to-Better-Regulation-May-2019.pdf>>

<sup>19</sup> NSW Government Treasury, 2019. *NSW Government Guide to Better Regulation*. Sydney.

**Principle 5:** Consultation with business, and the community, should inform regulatory development.

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**Principle 6:** The simplification, repeal, reform, modernisation or consolidation of existing regulation should be considered.

**Principle 7:** Regulation should be periodically reviewed, and if necessary reformed, to ensure its continued efficiency and effectiveness.

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## Components and tools

Regulation is likely to be 'better' when there are processes and institutions in place to:

- manage the existing stock of regulation;
- manage the flow of new regulation; and
- continuously improve regulator culture and capability.

The regulatory system should ensure that these components are performed in a coordinated and cost-effective way. Linking back to the OECD recommendation, government commitment to the management of each component is essential.

Jurisdictions deploy a variety of tools and approaches to address the components and some of these approaches are described here.

Not all jurisdictions have been included in this brief survey, and it is not intended to draw conclusions about the merits of different approaches. The information has been collated as an information source on what a better regulation framework *can* look like, not what they *must* look like.

## Commonwealth

The Australian Government continues to play a leading role in describing best practice for regulation-making, and regulatory practice in Australia. The Commonwealth brings together the components of a regulatory quality framework through its newly created Deregulation Agenda. The agenda "will focus on reducing barriers affecting Australia's productivity growth and competitiveness. It will also make sure regulations are well-designed, fit-for-purpose and support businesses to grow and create jobs".<sup>20</sup>

The deregulation agenda includes:

- key reforms that have been identified to manage the existing stock of regulation:
  - enhancing occupational mobility;
  - modernising business communications;
  - streamlining excise administration; and
  - streamlining overlapping regulation.
- management of the flow of new regulation through the Office of Best Practice Regulation (OPBR):
  - the Office works with departments and agencies to produce detailed, evidence-based assessments of complex policy issues.
  - According to OPBR, best practice regulation is achieved through the rigorous application of a Regulatory Impact Assessment framework. By applying this approach, the Commonwealth Government is looking to ensure that all policy decisions are evidence based and that "regulation is never adopted as the default solution, but rather introduced as a means of last resort."
  - A regulation impact statement is required where the impacts of a proposal are more than minor. Where Cabinet is the decision maker, a RIS is always required.

<sup>20</sup> <https://deregulation.pmc.gov.au/>

- the creation of a regulator performance function to increase accountability, promote best practice, build the professionalism of regulators and support cultural change. Best practice principles have been developed to underpin the Australian Government’s expectation of regulator performance. Key features include:
  - adoption of a stewardship approach. Stewardship assists governments to manage the stock of existing regulation by placing responsibility on Ministers, Secretaries and Agency Heads to ensure that regulation and regulatory approaches remain fit for purpose. Stewardship assists governments to identify proposal for regulatory reform.
  - Ministerial statements of expectation and regulator statements of intent to establish the policies and priorities for the regulator.

An additional tool to manage the stock of regulation is the Commonwealth sunseting framework. Many legislative instruments<sup>21</sup> are automatically repealed after 10 years—this process is known as sunseting and is governed by the Commonwealth’s *Legislation Act 2003*. The Productivity Commission notes that “the logic supporting sunseting is that much regulation inevitably has a ‘use-by date’ when it is no longer needed or will require significant modification. But without a trigger to reassess its utility, at least some of this regulation will inevitably remain in place.”<sup>22</sup>

### **New Zealand**

New Zealand is recognised for its comprehensive and an innovative approach to regulatory quality.

#### ***Better for Business (B4B)***

The centrepiece of its framework is the B4B program that is part of the Minister Business, Innovation and Employment. B4B is a comprehensive institutional response from government that reaches across managing the stock and flow of stock of regulation as well as regulator capacity and capability.

B4B describes itself as the ‘voice of Kiwi business.’ Insights into the experiences of businesses have dealing with government are gleaned through in-depth research and analysis. B4B then works with government agencies by sharing and highlighting these insights with policy and operational teams within the agencies. The outcome is the reduction of the cumulative impact of compliance on small businesses.

The various government initiatives are mapped across a spectrum from ‘avoiding burdens for small business’ (top of the cliff) through to ‘remediating burdens’ (bottom of the cliff).

#### ***Top of the cliff***

Top of the cliff initiatives include a regulatory impact assessment process aimed at achieving ‘better new regulation’. The focus of this initiative is to ensure that adopts a small business lens to policy. Another measure at this end of the spectrum is the ‘Better Rules Better Outcomes’ which is aimed at simplifying existing regulation. This is a human centred design process for legislation and regulation. The Better Rules methodology aims to assist people and businesses to understand, benefit from and comply with legislation in an automated way. The Better Rules approach allows for legislation to be developed in software code as well as written language from the start. It avoids the need for later translation of legislation into software language, avoiding the risk of incorrect interpretation. The Better Rules methodology will be particularly helpful for activities like calculating eligibility criteria for a benefit, and financial reporting obligations. It is the human centred design (HCD) approach which is embedded in a rules as code approach which is valuable and capable of delivering significant benefits to business.

<sup>21</sup> The Sunseting framework was reviewed in 2017 and it was recommended that the sunseting framework not be extended to Acts.

<sup>22</sup> <https://www.pw.gov.au/inquiries/completed/regulation-reforms/report> page XVIII

### **Bottom of the cliff**

Initiatives to remediate burdens (bottom of the cliff) include the 'Better comms and support' responses such as New Zealand's Business website<sup>23</sup> which provides a central point for all business programs, information and support including 'How to Start a business'.

### **Regulatory Technology**

New Zealand has invested in a comprehensive regulatory technology (RegTech) solution which assist in alleviating and remediating regulatory burden. Business Connect<sup>24</sup> is a digital service platform which enables businesses to:

- access and manage their business information from one place;
- use the data government already holds about them – their New Zealand Business Number (NZBN); will pre-populate the information they're most often asked to share;
- re-use the information they've previously provided to government;
- connect digitally across both local and central government; and
- more easily meet their compliance obligations.

### **New South Wales**

The NSW Government states that it is committed to continuous improvement of its regulatory policy framework to support and enhance opportunities for improved productivity.

Following an Independent Review of the NSW Regulatory Policy Framework in 2017, the New South Wales Government assigned responsibility for regulatory policy to the Treasurer and appointed a Commissioner for Productivity.<sup>25</sup>

In the context of economic recovery from COVID, the NSW Productivity Commission released in 2021 the *Productivity Commission White Paper*<sup>26</sup> identifying 60 opportunities to 'reboot' productivity growth. The white paper identifies four foundations upon which productivity growth should be built: talent, innovation, housing and infrastructure. The scope of the reform agenda in the White Paper is broad, with recommendations that range from education and schools to energy and taxes and housing and infrastructure.

Of central interest to the ACT Better Regulation Taskforce is the Paper's consideration of the costs and opportunities of regulation in a context of recovery and productivity growth. The White Paper argues that better regulation will:

- reduce unjustified restrictions on conduct;
- remove outdated, inconsistent, or unnecessary rules;
- reduce barriers to entry or price controls in network industries or occupations; and
- reduce compliance costs.

Recommendations for forward-looking regulation that supports competition and innovation include specific areas like drones, personal mobility devices and Automatic Mutual Recognition, but also whole-of-system reforms like amending legislation to translate rules to code where appropriate and adopting a negative licensing approach for low-risk licenses and activities.

Building on the White Paper, the NSW Productivity Commission recently released a discussion paper on regulating emerging industries which further articulates clear principles to underpin regulation in areas of

<sup>23</sup> <https://www.business.govt.nz/>

<sup>24</sup> <https://businessconnect.govt.nz/>

<sup>25</sup> <https://www.treasury.nsw.gov.au/sites/default/files/2018-02/Independent%20Review%20of%20the%20NSW%20Regulatory%20Policy%20Framework%20final%20report.pdf>

<sup>26</sup> NSW Government, 2021. *Productivity Commission White Paper - Rebooting the Economy*. Sydney.



technological change, to achieve safety, promote innovation and support industry. These principles propose that regulation should:

- be outcomes-focused – neutral to technology and focused on underlying objectives;
- promote a culture of regulatory experimentation – supporting trials, pilots and innovation; and
- be regularly monitored and reviewed – to assist in identifying barriers in the existing stock of legislation to the adoption of emerging technologies and ensure regulation remains fit for purpose.

As previously noted, New South Wales manages the flow of regulation through the application of best practice principles for better regulation to new and amending policy proposals.

## Victoria

Better Regulation Victoria (BRV) works with the Victorian Government and community to support the analysis, design, and implementation of best-practice regulation. It supports departments and agencies, and works closely with Victorian regulators, to deliver continuous regulatory improvements.

Working with the Commissioner for Better Regulation and the Red Tape Commissioner, BRV:

- Assesses the adequacy of regulatory impact assessments:
  - i.e., engaging with other departments and agencies undertaking impact assessments;
- Assists with the design, application, and administration of regulation
  - i.e., providing training on preparing impact assessments for public sector staff, and running workshops on impact assessments of complex issues
- Convenes the Regulators' Forum
  - i.e., a forum which brings together staff from regulators and relevant departments, whereby best practices can be shared
- Advises on and investigates complaints about competitive neutrality
  - i.e., upholding competitive neutrality between government and private enterprises providing the same service; and
- Researches other regulatory issues as directed by the Treasurer or the Secretary of the Department of Treasury and Finance.

BRV also communicates with Victorian businesses and not-for-profits to identify improvements or ways to reduce unnecessary regulation, including:

- Opportunities to cut red tape, with a 25% red tape reduction target (timeframe unspecified)
- Improvements to regulators' dealings with business, including the design and implementation of regulation
- Areas of regulatory overlap
- 'Hotspots' where regulatory reforms can 'unlock' economic activity
- Improvements to regulation administration, such as removing unnecessary burdens.

## Queensland

The Queensland Government established a Better Regulation Taskforce<sup>27</sup> under its small business advisory council to provide periodic reports to Government on opportunities for regulatory reform, with a focus on specific sectors and engagement directly with business groups. Recommendations vary across the reports, but some key themes emerge as they call for:

- Consistent and risk-based approaches to rules and regulations; and
- Clear, specific guidance material for regulated entities.

<sup>27</sup>Department of Employment, Small Business and Training. 2022. *Better Regulation Taskforce*. [online] Available at: <<https://desbt.qld.gov.au/small-business/advisory-groups/taskforce>> [Accessed 21 February 2022].

Like most other jurisdictions in Australia,<sup>28</sup> Queensland has a sunseting regime and has also established the Office of Best Practice Regulation which administers the Queensland Government's regulatory review requirements, which aim to ensure regulation is necessary, well-designed and fit-for-purpose.

## Towards an ACT Regulatory Quality Framework

The ACT has in place some key elements of the fundamentals identified in our analysis. These appear across regulatory schemes, administrative units, the statute book and policies and procedures. They reflect the Government's commitment to regulatory practice, which balances harm minimisation with the other objectives and interests of the community.

There is always opportunity for improvement as the Better Regulation program progresses in the ACT and it is important to consider 'what should the elements of an ACT Regulatory Quality Framework be?' Some current, foundational elements and regulatory management tools to draw on are summarised below.

### Box 3 – ACT foundational elements and regulatory management tools

- The ACT has a dedicated ministerial portfolio for Better Regulation and has funded a Better Regulation Taskforce to make it easier to start, run and grow a business.
- The *Legislation Act 2001* requires the preparation of Regulatory Impact Statements to accompany certain types of proposed subordinate laws or disallowable instruments. Section 35 outlines the required content of these statements, which includes an assessment of costs and benefits; a statement of the objectives being met through the law; and the options that were considered to achieve these objectives.
- The structure of Access Canberra as the primary regulatory agency of the ACT Government, supports the provision of effective guidance to regulated entities by simplifying the interaction of business and community with Government, as well as provides opportunities to reduce duplication, streamline processes and join up functions.
- Some regulatory frameworks, such as the regulation of construction licensing under the *Construction Occupations (Licensing) Act 2004*, include as a tool supporting better practice in regulatory performance and capability, a Ministerial statement of expectations whereby the responsible Minister can, in consultation with the registrar, make clear government expectations in relation to functions of the regulator – within appropriate limitations to preserve the independence of the regulatory function.
- Access Canberra commits to several approaches which align with the principles of better regulation including an approach to regulatory compliance and enforcement that is risk based. It applies risk-based compliance approach to ensure that resources are targeted to where the risks of harm, unsafe practices or misconduct are the greatest, thereby strengthening its capacity to take action where the community and the environment are most at risk.
- Access Canberra encourages compliance through education and awareness.
- Access Canberra regulates several laws that provide a range of tools to address non-compliance with the laws that it enforces

<sup>28</sup> Essentially, the Commonwealth, Queensland, Victoria, South Australia, and Tasmania's regulations/ subordinate legislation automatically expire (or sunset) ten years after coming into force. The precise date of this differs between jurisdictions. New South Wales is similar, but regulations/ subordinate legislation automatically expire after five years.

- The ACT Government is using the Wellbeing Framework and the information it provides to inform Government priorities, policies, and investment decisions – including through Budget and Cabinet processes.

Drawing on this survey of best practice examples and the engagement and research undertaken during the Discovery Phase, the Better Regulation Taskforce has developed for consideration a set of draft principles to guide the next phase of work of the Taskforce. The principles are draft because they need to be tested for the coherency, effectiveness, and applicability in the ACT context. The draft principles for making ACT regulation better are:

#### **Box 4– Towards Better Regulation – Draft Principles for ACT**

##### **Principle 1:** Articulate the ‘why’

- Regulation should only be introduced and retained where there is a clear need for government intervention – a clear problem to be addressed or a clear outcome the government is trying to achieve.

##### **Principle 2:** Assess the impact

- As a fundamental part of the policy development for legislation and regulation, an assessment of the impact of regulation (including its impact on wellbeing), within the context of existing regulatory burden, should be undertaken.
- This impact should be considered as a part of the government decision making process, including a consideration of a range of feasible policy options – including non-regulatory approaches.
- The assessment should include an assessment of risk and a consideration of risk appetite and tolerance.

##### **Principle 3:** Be accountable

- When the government makes decisions about regulation and regulatory approaches, the basis for those decisions and supporting evidence should be publicly available by default.
- Regulator discretion should be supported by transparency and accountability measures.

##### **Principle 4:** Make room for leading practices

- Regulation should allow regulators and regulated entities to innovate.
- Regulators should have access to a range of compliance and enforcement tools.

##### **Principle 5:** Put people at the centre

- Utilise human-centred design principles to ensure regulatory systems are effective and efficient.
- At all stages of the policy development and regulatory cycle, regular and effective consultation with stakeholders, especially regulated entities, should occur.

##### **Principle 6:** Easy to comply

- Regulation should be in plain language.
- Government systems should support seamless interactions between government and regulated entities.

##### **Principle 7:** Remain effective

- Regulation should be monitored and evaluated periodically to simplify, reform, modernise or consolidate.

- Regulators should regularly assess their delivery approaches and impact on regulated entities.

## FINDINGS – WHAT WE HEARD THROUGH OUR ENGAGEMENTS WITH BUSINESS

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Across our engagements with business some key themes emerged. These included:

- Small business information and communications;
- Simplification of Government to Business interactions;
- Regulator Practice (clarity, capability, culture, and continuous improvement);
- Programs and Support for SMEs;
- Skilled workforce; and
- Continuous improvement – reviewing legislation and regulations.

### Small business information and communications

Small business operators are very diverse, requiring varied communication needs and engagement preferences. Through our engagements we have heard:

#### Business needs and preferences

- Business has limited time and resources to seek out relevant government information.
- Business needs information to be clear, targeted and promoted for their awareness.
- Generally, most prefer business specific communication channels over general channels, and there is a strong preference for digital information over hard copy materials.
- Business has different information needs depending on what stage of the business lifecycle they are in. There is a need for information and advice at key growth stages as businesses grow and take on new responsibilities such as hiring staff or embracing more sophisticated management approaches.

#### Online information – accessibility

- With an increased focus on providing information online there is a need to ensure that information on websites is clear, easy to read and use, and regularly updated for currency (including links).
- Website information needs to be accessible across a range of digital devices, including mobile phones and other personal digital devices.

#### Personal contact points

- Communiques and information sent from the ACT Government should provide businesspeople with an opportunity to talk to a human being. Much information is routed through websites, and there is no phone number or other way in which affected business can talk to an officer.
- After accessing information online, business operators and start up entrepreneurs often need to talk to someone in government personally. Some have ideas or questions not resolvable online; others find existing text confusing or contradictory and need clarification.
- Government should give business operators an opportunity for phone calls, to help answer questions, give the personal touch and get feedback or identify problems from business.

### Communiqués about regulatory changes

- Any proposed changes which are likely to impact on business costs, trading hours or employment practices should be advertised and made clear well in advance of any such changes being implemented. There needs to be sufficient time to communicate with business owners and for the necessary changes to be made to operations.
- Any information or consultation about regulatory changes which may impact small business need to include small business advisors (e.g. accountants, legal advisors) and peak bodies as key audience groups as they play an active role in filtering and nuancing information for their small business clients.

### Providing targeted information, advice, and support to business

Business suggested various methods (physical and virtual) to provide targeted information and advice to support them in starting, running, and growing a business in the ACT. These included:

- A business centre which provides assistance from a credible source (i.e. being able to speak to someone who has run a business and understands the realities of running a business).
- An easy to access business hub to better connect business with government, including getting information on available business support, i.e. rebates and grants with industry specific support.
- A business concierge service which provides a dedicated agent who can answer questions about what services and supports are available to business, and how to access them.

## Simplification of Government to Business Interactions

Business expressed varied experiences of their interactions with government and the ease of doing business in the ACT. Business raised issues with some processes and approvals associated with running their business and with holding a major event in the ACT. Business also raised ideas for potential innovation and simplification of government to business interactions. We heard that:

### Processes and approvals

- Approval processes can be difficult, drawn out and there can be minimal or no update on the process after lodgement of the application. Some examples include the:
  - processing times of working with vulnerable people checks;
  - processing times and consultation requirements for development approvals;
  - difficulties that 'pop up' business experiences in navigating processes and obtaining necessary approvals;
  - ease of seeking events approvals, especially for repeated annual events where applicants must undergo the same processes afresh; and
  - duplicative processes within and between the ACT Government and the Commonwealth (for example seeking approvals from the National Capital Authority).
- Processes and approvals could be supported by:
  - improving processing times and communications on the progress of applications;
  - applying a 'yes' first regulatory culture and explaining 'how' stakeholders can do or achieve something;
  - applying a 'tell us once' principle where the same information must be provided to different ACT Government agencies, or when the same event is repeated over time (e.g. yearly); and
  - empowering those working on the ground to suggest improvements to processes based on stakeholder input and feedback.

### Streamlines business reporting – Tell Us Once Principle

- Business gets frustrated when they are required to provide the same information to different government entities.

- A 'tell us once' principle could be adopted so that business must only submit similar information to ACT regulators once (for example updating information about board members).
- This principle could also be adopted for other information requirements relating to licensing (for example (fit and proper person test).

#### Business licences and renewals

- Many business licences are offered on an annual basis, although renewal is routine and non-controversial.
- Renewing licenses is a task that takes up time and managerial effort.
- Business would like greater flexibility by being given the option for multi-year regimes, as well as annual renewals.

### Regulator Practice (clarity, capability, culture & continuous improvement)

Engagement with business has indicated that there are some areas for improvement to regulator practice. This encompasses improvements to regulator clarity, capability, culture, and employing a continuous improvement approach. Through our engagements, we heard that:

#### Understanding the needs of business and providing a personalised approach

- Many business operators perceive government as not fully understanding the experiences, burdens and stressors of running a small business.
- Business prefers to speak with those who understand and can empathise with the business experience.
- There needs to be a deepening of the level of business knowledge within the ACT public sector.
- Business dealings with government could be improved by:
  - encouraging government to actively recruit public service candidates with a former business or business-enabling background;
  - educating regulators to understand the experience of the business community and help support productive dialogues, possibly through professional placements within industry associations; ~~and~~
  - using co-design processes to bring business stakeholders into earlier parts of the regulatory design stage; and
  - creating a personalised approach to regulatory compliance activities through a case manager approach, so business can develop ongoing productive relationships with regulator staff (individual or team). Facilitating contemporaneous feedback, tailored responses, the upfront triaging of issues and continuous improvement by regulators.

#### Regulatory approach and compliance enforcement culture

- Regulatory policy needs to recognise the needs of business, be cognisant of the impact of regulation on small business at a community level and seek to minimise the cumulative burden of regulation.
- Business stressed the importance of regularly measuring the burden of regulation on business both actual and perceived through annual or bi-annual surveys.
- Business called for the ACT to lead the way by applying a 'think small first approach' to regulation, wherein laws are written first and foremost for small business, considering their ability to apply. If greater or high standard of compliance are expected by larger firms, then this should be an explicit addition to the law.
- Business called for the ACT to strive to have identical or similar laws to those in NSW, unless there is good reason not to do so. Reducing the cost of different regulation for two adjacent jurisdictions.

- Business also suggested the ACT compare and contrast its performance to that of nearby regional NSW. The ACT should at least match, or better, the operating environment for business in NSW.

#### Supporting straightforward business compliance and alleviating the burden of regulation

- Straightforward business compliance could be supported by:
  - developing a streamlined online portal that allows business to quickly understand which regulations apply to them, and which provides educational material on how they can fulfil their requirement;
  - making regulatory compliance straightforward by ensuring clarity around rules;
  - reducing the subjectivity in regulation and its application;
  - ensuring legislation, policy, procedures and fact sheets are written in plain English;
  - providing improved factsheets and checklists to support business understanding and compliance, as well as preparedness for inspections;
  - refining Access Canberra's role through improving upfront triaging of issues and adopting a case manager approach to regulation and compliance;
  - providing simple, accessible training to support compliance;
  - clarify the ACT's regulators and Ministerial portfolio responsibilities and 'who does what', so business knows who to speak to about specific issues; and/or
  - ensuring that regulators take the time to understand the perspective of regulated entities (i.e. 'walking in the shoes' of business).
- Where there are multiple regulatory agencies, government and regulators need to alleviate the burden on business through:
  - ensuring that the regulation is justified through cost-benefit analysis;
  - ensuring appropriate co-operation and coordination (for example coordinating inspections and where possible, holding them at off-peak times);
  - easy and swift interactions with government agencies; and
  - investing in, and using, digital technology (RegTech) to ease interactions with government agencies.

### Programs and Support for SMEs

Small to medium enterprises (SMEs) expressed the ongoing need for programs and support, throughout COVID-19 and beyond.

Business was encouraged by some of the COVID-19 business support initiatives, including the Choose CBR program and the waiving or reduction of hire car registration costs during the peak of the COVID-19 pandemic.

Outside of COVID-19 specific supports, business indicated the need for general business support for those in the growth stage of the business lifecycle. Business noted that there are many existing grants for start-ups and big business, but not for those in the middle, which makes it difficult for those trying to scale up their operations to access tailored information and support.

Business, particularly SMEs, also expressed a strong desire for support in understanding government procurement requirements, and in bidding for government procurement opportunities.

#### ACT Government Procurement

Business identified some current barriers to undertaking procurement. We heard that:

### Understanding and awareness and SME engagement

- The ACT Government procurement system can be confusing. There is an apparent lack of SME understanding of the various procurement opportunities available across different sectors. This includes a lack of understanding about SME eligibility to bid for ACT Government contracts and how to apply to get onto ACT Government panels.
- ACT Government employees undertaking procurement often don't understand the realities of running a business and what they are asking of business through procurement processes. This includes the costs associated with bidding for ACT Government contracts.

### Aboriginal and Torres Strait Islander and women owned business

- Women owned and led business and Aboriginal and Torres Strait Islander own and led business both identified that more could be done to increase their participation and share of ACT Government contracts, including by challenging perceived bias.

### Procurement framework – procurement policies and practice

- The existing procurement thresholds are outdated and should be reviewed for currency.
- There could be greater clarity about how to make an unsolicited bid and how it will be dealt with.
- ~~The Secure Local Jobs Code can act as a barrier.~~
- Panels depending on the frequency in which it is refreshed can act as a barrier for SME participation.

### Tender documentation and contracts

- Stakeholders identified liability and insurance provisions in ACT Government contracts as a potential barrier for SMEs. They suggested that the contract liability and insurance provisions be reviewed and reformed including those clauses relating to uncapped liability, consequential loss and proportionate liability.
- There is a perception that there is little to no tolerance for failure in ACT Government procurement. Mitigating risk leads to the removal of risk entirely making it harder for new, unproven business to be successful.
- There is a need to continue to move away from output reporting and towards outcomes-focused procurement and contracting.
- In respect of the not-for-profit sector, it was noted that there is a need to rationalise the accumulative burden of contractual reporting requirements and grant funding reporting requirements.

### Comfortable communications

- While acknowledging procurement and probity requirements, government officials can often be risk adverse in their communications with prospective respondents/tenderers. Communications can be quite bureaucratic.
- Where human questions are asked business would like human answers.

### Linking procurement policies and practice to broader ACT Government objectives

- While acknowledging the importance of the Government procurement values and social procurement in the broad, business noted the time it takes to respond to these criteria in procurement documentation does not often align with the weighting assigned to it.
- There could be greater clarity given about Territory objectives for small business, and how business can reach those objectives. If there are quotas, share them with industry. For example, stakeholders suggested using quotas for female representation through procurement processes and contracting as this is more likely to achieve intended outcomes (i.e increase female representation in certain industries). While others noted that this would also need to be supported through education and training measures.



### **Greater certainty through forecasting**

- Early market engagement and improved forecasting would provide greater clarity to industry. This includes upcoming projects and budgets.
- There is a need to provide greater certainty of infrastructure spend beyond two years.

### **Debriefing**

- There is little or no feedback provided for failed bids making it harder for business to learn from their mistakes. Where feedback is provided, it often provides little utility to help business improve their bids in the future. Noting that there are inconsistencies between directorates in their approach to debriefing respondents/tenderers.

### **Identified opportunities**

Stakeholders identified some opportunities to support having a best practice procurement framework and participation of SMEs in supplying to the ACT government. These included:

#### ***Championing local business***

Provide clear pathways to follow which make it easy for a business to check their eligibility and bid for ACT Government contracts. Build engagement with, and the confidence of, local SMEs to bid for ACT Government contracts.

#### ***Best Practice Procurement Framework***

Maintain a best practice procurement framework by undertaking regular reviews for currency. Review procurement thresholds, communicate the importance of government procurement directions and/or policy objectives to industry and appropriately weight them, and provide greater certainty to industry through forecasting.

#### ***Best practice tender documentation and contracts***

Review ACT Government contract liability and insurance provisions and consider incentive-based contracts.

#### ***Have a 'go to' place for connection***

A central place where SMEs can go to access public facing procurement information and supports. This could include toolkits and guidelines (in plain English), 'how to' videos, tables which summarise all existing panels and their refresh dates, and an SME supplier list (pre-vetted against the procurement values).

#### ***Feedback mechanisms for continual improvement***

Provide respondents/ tenderers a debrief consistent with ACT Government debriefing guidelines.

#### ***Increased ACT Government knowledge and capability***

Ensure consistency in the approach to procurement across Territory entities. Increase the level of knowledge of the procurement framework and capability to undertake procurement across Territory entities. Ensure the people running procurement confidently communicate and answer respondent/tenderer questions, whilst also complying with probity requirements. Provide human answers to human questions.

### **Skilled Workforce**

Having skilled staff when they need them, was a common issue raised by business, particularly in the context of COVID-19. We heard that:

- Business cannot access the staff they need to run and grow their business.

- Skilled workforce shortages have been experienced across a variety of industries, causing business complexities including pressure on staff wages.
- Business wants to ensure that there are reciprocal recognition of licenses, to support occupational mobility from interstate. This includes a broad program of Mutual Recognition, being undertaken at a national level and specific supports to understand and facilitate transfers of certificates or jurisdictional specific further training.
- Commonwealth and ACT Government measures should work together to support the attraction of workers to the ACT and the hiring/upskilling of staff, including (but not limited to):
  - affordable housing;
  - city renewal and activation;
  - incentives for business to take on apprentices; and
  - visas conditions, for example ordinarily international students are permitted to work 20 hours a week (40 hours a fortnight) while courses are in session, and unlimited hours when their course is out of session.

## Continuous Improvement – Reviewing ACT Legislation and Regulations

Engagement with business has identified potential focus areas for review and reform to ensure fit-for-purpose and best practice regulation. This includes effort to both manage the existing 'stock' of regulation as well as the 'flow' of new regulation. These have varying levels of complexity.

Business raised the need for continuous review and improvement to:

- address regulatory issues faced by the night-time economy and entertainment sectors, with particular focus on noise, outdoor dining and liquor licensing;
- implement a best practice procurement framework for SMEs through reviewing the Procurement Act and Regs;
- enhance labour mobility through the implementation of a uniform scheme for automatic mutual recognition of occupational licenses;
- update:
  - employment agent licensing requirements;
  - model rules for incorporated associations;
  - references to outmoded payment methods in legislation; and
  - training requirements for the responsible service of alcohol framework.

Business raised other focus areas which require further analysis including:

- consideration of a potential licensing framework for individuals as motor vehicle repairers; and
- support for diversification out of gaming through changes to 'lease purpose clauses' definitions (for example changing the definition of 'club' in the territory plan to allow additional uses).

Business suggested that in reviewing and updating legislation and regulations generally that regard should be given to a regulatory approach which:

- thinks 'small first';
- achieves cross border alignment, where possible, to reduce burden on those business operating across jurisdictions (regional NSW and ACT); and
- reduces overlapping regulation and streamlining compliance reporting (applying a 'tell us once' principle).

## FINDINGS – LEGISLATIVE REVIEW, IDENTIFIED OPPORTUNITIES

Throughout the Discovery Phase, the Taskforce commissioned a legislative review to support the objectives of the Taskforce to identify the purely regulatory landscape impacts on business in the ACT. The wide-ranging legislative review identified opportunities for regulatory review and reform to reduce regulatory burden on business.

The focuses of the legislative review were to review key legislation to:

- 1) Reduce the need for business to contact multiple Government agencies;
- 2) Ensure legislation across the ACT supports new business models to grow the digital economy; and
- 3) Identification of opportunities to reform legislation to ensure regulatory settings remain fit for purpose and consistent with best practice principles.

### Research undertaken

The potential review projects were identified through the following processes:

- Scan of the entire ACT primary legislation database;
- Review of recent regulatory developments in Australia, across the Commonwealth and States, and New Zealand; and
- Review of the outcomes of stakeholder consultations conducted by the Taskforce.

### Potential Identified Projects

The legislative review identified six potential projects for review.

#### **Project 1 – Regulation of the ‘entertainment economy’**

Review the full legislative and regulatory arrangements for the entertainment economy, which straddles the industry sectors of accommodation and food services and arts and recreation services.

This project was identified through consultation which raised numerous and ongoing barriers faced by the sectors of accommodation and food services, and arts and recreation services, particularly throughout the COVID-19 pandemic.

There are many small businesses in the ACT seeking to operate in these sectors who have expressed concerns regarding the lack of a coordinated approach to approvals and regulations around operating their business. The hospitality and entertainment sectors have great potential to make a significant contribution to the ACT economy, the jobs market and the way of life of Canberrans generally. This review would consider the scope for a fundamental re-organisation of regulatory arrangements affecting the ‘entertainment economy’. The review could examine legislation and regulatory practice in areas including land use, food and beverage regulation, and noise control. It may consider appropriate alternatives to arrangements currently requiring prior approval.

#### **Project 2 – Standardise procurement processes across ACT Government**

Standardise procurement processes across ACT Government and consider scope to implement preferential treatment for local content.

Consultations with business have identified barriers for business throughout ACT Government procurement practices.

A possible review could examine the scope for legislation to provide for the following specific measures:

- appropriate risk assessment and management practices and standards (including insurance requirements for contractors);
- obligations to provide information/feedback concerning tenders; and
- preference for local content in procurement decisions.

### **Project 3 –Technology specific legislation**

General review of legislation to remove any obligations requiring use of a particular technology, including paper-based documents including paper-based documents.

This project focuses on a broad review to ensure updates to legislative vernacular to ensure outdated technologies are not continuing to be required.

Although reforms of this kind have been undertaken in the ACT over recent years, there appear to be benefits from a further review of legislation, statutory instruments and administrative practice in this area. The objective is to enable full use of modern digital technology appropriate to the circumstances. Reviews of these kinds are currently underway in other jurisdictions, including the Commonwealth.

Removal of requirements to provide information in a particular manner will minimise costs to business. Scrutiny of such legislation or other regulatory practices also provides an opportunity to identify and remove requirements that are unnecessary or overly prescriptive. This project could review legislation and regulatory practices which require, or presume, communications by means of a particular technology, such as a paper-based notice or a meeting requiring personal attendance. This includes arrangements currently suspended because of the COVID-19 pandemic.

### **Project 4 –Scope for cross-border alignment**

General review of ACT and NSW business regulation legislation to maximise cross-border alignment with NSW, with a focus on legislation having significant impact on small business.

This project is very relevant for the ACT as a small jurisdiction surrounded by regional NSW. Many businesses, including many small businesses, operate both within the ACT and surrounding areas of New South Wales. Compliance costs due to a lack of regulatory alignment impact disproportionately on small business. A review of regulation and analysing opportunities for regulatory alignment with NSW would clearly make it easier to do business across NSW and the ACT.

A full review of the alignment of ACT legislation with that of NSW would require detailed examination of legislation and regulatory practice across both jurisdictions. This would require consideration of a wide range of policy questions where divergences are identified.

### **Project 5 – Regulatory overlap**

Review of regulator/regulation overlap and duplication to reduce touchpoints, with a focus on legislation having significant impact on small business.

Businesses, both in the ACT and across Australia have expressed concern about regulatory overlap and duplication that has significant financial and time cost impacts. Often this experience can involve the need to deal with different regulations and different regulators for the same, or a similar activity. Stakeholders seek simplified business to government interactions and a 'tell us once' approach.

A review could identify areas of overlap or duplication which can be streamlined to make processes simpler and more transparent. This project aligns with Commonwealth government objectives to streamline processes and eliminate duplication.

This review would involve further consultation with business to identify any other areas where regulatory overlap may exist and where its removal would have practical benefits for business.

### **Project 6 – Regulator Performance**

Introducing legislation to improve regulator performance.

Ensuring continuing improvement and standards for regulator best practice and performance will benefit business. This could be achieved through changes to legislation to support better regulatory settings and practices. The Productivity Commission has noted studies showing that up to 50% of unnecessary costs for business are due to how regulators implement regulations.

Stakeholders frequently request guidance for regulatory compliance to be provided in a more accessible form. Stakeholders have frequently requested clearer guidance for regulatory compliance such as improved checklists and information, provided in a more accessible form such as a streamlined online portal.

The concept of 'stewardship' has been promoted in several jurisdictions. The objective is to impose duties on regulators to assess effectiveness and appropriateness of legislation and regulatory practice on a regular basis.

The Productivity Commission has noted that better outcomes for small businesses and the community are achieved when regulators have a range of tools that enable them to tailor their responses to breaches (or potential breaches) of regulation in a proportionate way, rather than having to rely solely on combative approaches such as initiating legal proceedings.

## **THE COMMONWEALTH'S DEREGULATION AGENDA**

The ACT's approach to better regulation must take account of the Commonwealth suite of initiatives because:

- there are several valuable and worthwhile initiatives in this suite that can contribute to better regulation in the Territory including:
  - lifting regulator performance, capability and culture; and
  - streamlining overlapping regulation.
- we can leverage learnings from our work on the Commonwealth agenda for our own 'better regulation' agenda, for example:
  - our understanding of the ACT licensing landscape through our work on AMR could be used to support further reforms in this area.

- some of these initiatives apply automatically to the ACT in any case, including:
  - improving occupational mobility; and
  - modernising business communication.

As a result, the Commonwealth's Deregulation Agenda will continue to shape the ACT Government's Better Regulation forward work program. Taskforce resources will continue to be devoted to the Commonwealth Deregulation workstream as these proposals are developed and implemented.

The Taskforce already represents the ACT Government on Commonwealth State groups for improving occupational mobility, modernising business communication and reform of State and territory fundraising laws which is one of the projects identified under the workplan for streamlining overlapping regulation. Like all governments, the Commonwealth has recognised the need to review its stock of regulation over time to remove reduce barriers affecting Australia's productivity growth and competitiveness. Its most recent 'congestion busting' agenda commenced pre-COVID in 2019. However, in June 2020, the Deregulation Taskforce was moved to the Department of Prime Minister and Cabinet renewed its deregulation agenda to "zero in on areas to assist with COVID-19 economic recovery."<sup>29</sup>

The Commonwealth's Deregulation Agenda:

- examines regulation from the viewpoint of business;
- focuses on regulator culture as much as the content of regulation; and
- builds on regulatory changes made as a result of COVID-19.

## Priorities

Five priority workstreams have been identified to date by the Commonwealth for this Agenda.

### Lifting regulator performance, capability, and culture

Phase One of this work program was delivered in June 2021. The centerpiece of this work is the Regulator Performance Guide which establishes the Commonwealth Government's expectations of regulator performance and reporting via three best practice principles.

Phase two of the work program is focused on promoting and supporting regulators and policy agencies to embed the Regulator Performance Guide. This includes a refreshing of Ministerial statements of expectation and a stocktake of Australian Government regulatory functions to provide visibility of the regulatory landscape.

### Improving occupational mobility

The Automatic Mutual Recognition of Occupational Registrations (AMR) scheme removes the need for people to apply and pay for an additional registration or licence when working in another state or territory, saving them time and money.

AMR came into effect on 1 July 2021. It applied automatically in the ACT from that date. As a transitional arrangement, most of our occupational licences are temporarily exempt from AMR until 1 July 2022 as we work through a number of implementation challenges.

### Modernising business communication

This priority area focuses on identifying regulation that has not kept pace with digital communications and therefore adds a compliance cost to business. Analysis and consultation in relation statutory declarations and deeds is underway to ensure that the regulations that govern the execution of these documents are light-touch, fit for purpose, and reflect the way Australians want to engage and communicate digitally.

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<sup>29</sup> <https://www.pm.gov.au/media/address-%E2%80%93ceda%E2%80%99s-state-nation-conference>

As the Commonwealth's *Statutory Declarations Act 1959* applies in the ACT, any amendments made to that Act because of this initiative will flow through to the ACT.

#### Streamlining excise administration

This initiative is focused on streamlining the administration of excise and excise-equivalent customs duty regimes by the Australian Tax Office and Australia Border Force. A review of will be undertaken by the Commonwealth to identify ways to cut regulatory overheads for business.

#### Streamlining overlapping regulation

Under this priority, the Commonwealth is looking to partner with contains practical projects to reduce unnecessary compliance costs to business when meeting 'overlapping' regulatory obligations between different agencies or governments.

The [ten projects](#) are intended to align with three key messages heard from business around the importance of:

- only telling governments once;
- leveraging trusted overseas standards and expertise; and
- providing one regulatory experience across the economy.

While the ACT is not yet seeking to partner with the Commonwealth on these projects, they will have significant implications for ACT businesses, for example - streamlining business registration nationally and streamlining business reporting to enable the pre-filing of business payroll tax lodgements.

The Taskforce is part of the cross-jurisdictional working group on state and territory fundraising law reforms which is one of the ten projects listed in the workplan.

## WHERE TO FROM HERE? – BETTER REGULATION AGENDA 2022-23

We have listened to business and have heard that business wants:

- government to better understand the needs and experiences of business;
- information for business to be clearer and targeted to business;
- to only tell us once;
- to know where they can go to get help and for there to be someone they can talk to who understands business;
- government to 'think small first';
- government to say 'yes' whenever we can;
- government to be transparent, coordinated and consistent; and
- streamlined, faster processes and approvals.

Considering these findings from the Discovery Phase, the Taskforce has developed an Agenda for Better Regulation for the ACT which will be implemented progressively during 2022 and 2023.

Through its Better Regulation Agenda (the Agenda), the ACT Government is putting in place the best settings for business recovery, longer term growth and regulation in the ACT. The ACT Government is making government-business interactions better, faster, and simpler through identifying and making improvements to the rules, regulations, government processes and available information and supports for business.

The Agenda will ensure that Canberra is a place where it is easy to start up and run a business. This requires that the government:

- supports regulators to create certainty for business;
- ensures consistency of information; and
- facilitates clear and open business-government communication on regulatory issues.

### Towards A Regulatory Quality Framework

Regulation that is done well can boost the economy and deliver the best outcome for ACT business, consumers, and the community at large. Sustainable better regulation that the government and the community needs and wants is achievable where there is an endorsed framework for regulatory quality. Many elements of the framework are already in place in the ACT. We have measures to manage the stock and flow of regulation and to continually improve regulator capability and culture. Over the next two years, the Taskforce will draw together these existing elements, test new ideas and co-design a co-ordinated and coherent regulatory quality architecture for consideration by Government. The draft principles for Best Practice Regulation in this report provide the starting point for this work and the Agenda provides a crucial learning and engagement opportunity to test and progress these big ideas while delivering immediate improvements for business.

The Agenda includes measures that span several directorates and agencies including Economic Development and Access Canberra. Some reforms will be delivered by the Taskforce, while others will involve delivery led by the subject matter experts in ACT directorates and agencies.

The Taskforce will retain an oversight and co-ordination role for all measures on the Agenda. Alongside the delivery of numerous measures, the Taskforce will be responsible for reporting to Government on progress against the Agenda and keeping business informed of the latest developments.

The Better Regulation Agenda is comprised of two key streams of focused Government reform action:

- 1) **Policy and Legislation** – making continual improvements to the rules, regulations, and processes; and
- 2) **Business Experience and Regulator Performance** – making government-business interactions better, faster, and simpler.

These streams will be progressed parallel so that improvements for business are delivered as quickly as possible.

### Stream 1: Policy and Legislation – Improving Rules, Regulations and Processes

Informed by jurisdictional analysis, engagements with business, and review of key legislation we will:

#### Put in place a Best Practice Procurement Framework for Small and Mediums Enterprises

The ACT small and medium sized business community told us that many of the barriers and enablers to economic prosperity in the ACT are not strictly regulatory in nature but relate more generally to business-government interaction, especially around procurement.

SMEs told us they need tailored information and guidance to support them to bid for ACT Government contracts, and the ACT Government needs to ensure their processes are proportionate and not overly burdensome to support SME participation.

- ✓ **We will review procurement legislation, policies, and administrative procedures with an SME lens and bring options to Government to support a best practice procurement framework**



## Enhance Labour Mobility

Business wants to ensure that there is reciprocal recognition of licences to support occupational mobility from interstate. As a cross border community, automatic recognition of the licences of workers registered in New South Wales will reduce barriers for ACT businesses to quickly and easily onboard interstate workers.

- ✓ **We will ready the ACT for the commencement of automatic mutual recognition of occupational licensing.**

## Undertake stock management through improvements to existing frameworks

Through our engagement with business and our support of the Commonwealth Deregulation Agenda, we need to ensure that our existing frameworks are still fit for purpose. Have our laws kept pace with the way business engage with digital communications? Do our regulatory frameworks allow for new ways of doing business? Are there regulatory requirements that just no longer make sense?

This element of the Agenda identifies a number of individual reform opportunities that have been raised with the Taskforce and warrant consideration by Government.

These reforms are the first tranche of important 'stock management' measures. We continue to listen to business and regulators to identify other reform opportunities for our future work program.

- ✓ **We will develop options to improve existing regulatory arrangements for:**
  - the execution of statutory declarations and deeds
  - model rules for Incorporated Associations
  - references to outmoded payment methods (including unnecessary references to cheques) in legislation
  - ACT refresher training courses for interstate responsible service of alcohol certificate holders
  - the licensing of employment agents

## Stock management through industry-focused review and reform – Night-time and Entertainment Economy

The night-time/entertainment economy has been significantly impacted by COVID-19. The hospitality and entertainment sectors makes a significant contribution to the ACT's economic recovery, the jobs market and the way of life of Canberrans generally.

Business has raised a number of ~~several~~ concerns about how this sector is currently regulated. Noise management, an uncoordinated approach to approvals, disproportionate burdens of fees for differing scales of ~~businesses, an businesses,~~ an overall lack of integration of policy and lack of clear information on compliance requirements are the concerns that have been raised.

- ✓ **We will comprehensively review the legislative, regulatory and administrative arrangements for 'entertainment economy', which straddles the industry sectors of accommodation and food services and arts and recreation services.**
- ✓ **We will bring options to government to better arrange regulatory frameworks for this industry, to support recovery and growth.**

## Stream 2: Business experience and regulator performance – making government-business interactions better, faster and simpler

Informed by engagements with business we will:

**Better understand the experiences of business in dealing with government and simplify government-business interactions**

Business has told us that there is a lack of understanding of business needs by government and that we don't really know how much regulation actually impacts on business. We also heard the business wants government to stand in the shoes of business when thinking about regulation

- ✓ **Through the following activities, we will better understand the experiences of business in dealing with government and identify opportunities to simplify government-business interactions:**
  - Develop a survey of business sentiment to measure the quantity and quality of interactions of business with government over time.
  - Develop options to better measure and benchmark regulatory burden.
  - Map the end-to-end business user experience.
  - Pilot a model for human-centred design for new regulation.

**Ensure that business will only need to “tell us once”**

Businesses experience frustration when required to provide the same information to different government entities. This causes duplication for businesses in their regulatory compliance, which leads to a cumulative burden.

- ✓ **We will work iteratively to identify and act on identified opportunities to streamline processes, reduce overlap, and duplication for business.**
- ✓ **We will better use data to inform regulatory focus and protections.**

**Provide clear, targeted information and tailored support on regulation**

Business needs accurate, targeted information from government which they can access how and when it suits them. Sometimes business needs more than a webpage. It needs support from government that has a human face. It needs support that is proactive, forward leaning and individualised to meet the specific challenges or opportunities for that business.

- ✓ **We will produce new and improved information resources and tools – such as infographics, fact sheets, requirement checklists and process maps – specific to business types. This will include clear information on “who’s who”, who to contact in regulatory agencies on issues and requirements to start and run a successful business.**
- ✓ **We will overhaul existing Access Canberra websites to provide clear information and an entry point for business. This will include web resources providing advice and guidance on how to start a business in the ACT.**
- ✓ ~~We will improve and target information so it is relevant to business and provide:~~
  - ~~clear regulatory outcomes and the harms to be minimised – the value of compliance;~~
  - ~~key contacts and where to go for information and support;~~

Commented [CF7]: Too vague?

Commented [ES8R7]: Yeah it is a bit vague. What is this one about?

Commented [CD9]: Budget impact

- clear guidance, connections and support about regulatory obligations and requirements to start and run a successful business;
- opportunities to provide feedback so regulators can continue to enhance information provided to business.

- ✓ We will introduce a dedicated, proactive business support team to work through a “concierge” model one-on-one with business to educate and problem solve. This would include working with existing or new and emerging businesses to find solutions and enable innovation.
- ✓ We will put in place a process to make saying ‘yes’ to business ideas easier –
  - we will have a customer commitment to finding solutions for business by being clear on the harms and risks that set our requirements and removing barriers where we can, we will be more flexible and work with you to support innovation.
  - We will put in place a ‘sandbox protocol’ to empower regulators to explore innovative ideas. This may include targeted regulatory exemptions to allow for innovative products or services with appropriate requirements for managing risks and monitoring outcomes.

Commented [CF10]: Can be deleted I think because it replicates the first tick ?

Commented [CD11]: Budget impact

Commented [CF12]: Too vague?

Commented [ES13R12]: Leave this one in. But we should make sure AC actually starts including this type of language into their internal documents so it starts to influence behaviour change.

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OF TWO STREAMS  
HERE

## APPENDIX A – METHODOLOGY

The Taskforce has used the Discovery Phase to seek answers to its core questions by undertaking:

- Jurisdictional analysis;
- Engagement with business and stakeholders; and
- A wide-ranging legislative review.

The Taskforce also progressed the Commonwealth's deregulation reform agenda.

### Jurisdictional Analysis

An extensive jurisdictional analysis was undertaken to identify previous and current reform programs and statements of best practice principles across the country and internationally. The Taskforce reviewed trends and regulatory policy to determine a criterion by which existing regulation could be considered, as well as a framework against which new regulation could be assessed.

### Engagement

During the Discovery Phase, the Taskforce sought to identify issues emerging from regulation that place burdens on business and identify the most effective levers to use to address these.

Informed by human-centred design (HCD) principles, the Taskforce sought to engage with a wide range of business to better understand the issues they face, and the possible solutions required.

By employing a HCD approach to consultation, the Taskforce sought to capture what is working well, locate the key pain points for different stakeholder groups, and gain an understanding of where regulatory reforms could deliver the most value.

### Engagement Principles

The Taskforce employed key engagement principles throughout its engagement. These were to:

- Engage with stakeholders in ways that suit them— by acknowledging that business owners and representatives are very busy;
- Keep stakeholders informed – by understanding engagement as a two-way process; and
- Engage respectfully – by acknowledging the valuable time and insight of stakeholders.

### Engagement Activities

The Taskforce undertook a broad program of consultation and engagement across Canberra. This included focus groups, workshops, roundtables, and one-on-ones. The Taskforce engaged with business, precinct groups, peak bodies, industry forums and government regulators to hear about issues that businesses are experiencing.

#### Factsheet

A factsheet was published in March 2021 on the ACT Government website introducing the Taskforce, its role, and its immediate focus of improving regulation.

The factsheet and associated web content encouraged business to *have their say* through an open call for business to share their experiences, known barriers, and ideas for improvement with the Taskforce. A series of questions were posed to help start this conversation:

- What is the biggest issue facing your business right now?
- How has ACT regulation supported or strained your business during the COVID-19 pandemic?
- What are your interactions with the ACT Government like?
- What do we do well?
- What could we improve upon?
- Is the information and support you need to run your business in the ACT easily accessible?

- What other information would make it easier to run your business? Where would be the best place for you to access this?
- Are there government requirements on your business that are onerous, take too long or are confusing?
- How could we enhance our reputation as being the best place to do business?
- What processes, rules or regulations present barriers or hurdles to you doing business in the ACT?
- Have you experienced any duplication between Commonwealth and ACT processes?
- How could this be improved to be more aligned?
- Are there any government forms or processes that could be digitised and moved online?

The Taskforce's email and a contact number were provided so that business could reach out to the Taskforce directly.

### Workshops

The Taskforce held in person workshops to obtain a high-level understanding of key regulatory issues in the ACT. These workshops were focused on capturing the breadth of issues that represent unnecessary regulatory burden and make it hard for businesses to interact with Government.

The Taskforce targeted its workshop engagement activities on sectors that have been hardest hit by the COVID-19 pandemic, such as the entertainment/night-time economy, and sectors with the greatest potential for growth and jobs creation in the future, focusing on innovation and entrepreneurship.

The workshops conducted throughout 2021 were:

- 29 March 2021 – ACT Government Stakeholders
- 30 April 2021 – Night-time economy and entertainment sector
- 23 June 2021 – Innovation sector
- 28 July 2021 – ACT Procurement

These workshops were targeted at sophisticated small businesses, large businesses, peak bodies/industry associations, and government stakeholders. The workshops explored issues that currently impede efficient business practice or create subpar regulatory experience and how they might be addressed.

The Taskforce developed interactive agendas for these workshops to address topics of interest. Workshops were run by an expert facilitator and insights were captured around the key themes to emerge through the workshop.

#### ACT Government Stakeholders

This internal workshop introduced the Taskforce to key business areas across ACT Government. The workshop helped provide focus to the Taskforce's program of work, informed stakeholder mapping, and provided the regulator's perspective on optimising regulator efficiency and effectiveness.

#### Night-time economy and entertainment sector

As demonstrated by the economic indicators, the ACT night-time economy and entertainment sector were particularly hard hit throughout COVID-19 and continued to manage public health restrictions in 2021, while most of Canberra had returned to low or zero restrictions. Attendees comprised representatives of business peak bodies, as well as business owners and managers from the relevant sectors.

#### Innovation sector

This workshop focused on the regulatory barriers facing the innovation sector, defined as encompassing start-ups, green economy businesses, tech and cyber security businesses and higher education institutions. The workshop was developed and delivered in partnership with the Canberra Innovation Network.

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## ACT Procurement

The Taskforce with the support of Procurement ACT held a workshop focused on government procurement. The Taskforce had heard from members of the Canberra Business Chamber, Canberra Women in Business and Canberra Innovation Network that procurement was an area that the Taskforce should focus on. This workshop aimed to provide information for attendees on the current ACT Government procurement framework and help the Taskforce better understand the challenges and opportunities in relation to ACT Government procurement and what it should focus on addressing.

In addition to this workshop, a survey was released in December 2021 by Procurement ACT to review its procurement systems, processes and engagement with industry as well as seek feedback from users on their experiences in tendering for opportunities with the ACT Government. The survey results will serve to identify future opportunities for improvement and inform future requirements for whole of government procurement systems.

### Attending existing forums

Taskforce representatives attended existing business forums, recognising the valuable time of business and going where business already were. These included the Canberra Region Tourism Leaders Forum, and member roundtables held by the Canberra Business Chamber.

### One-on-Ones

The Taskforce conducted extensive one-on-ones with a wide variety of ACT businesses and peak bodies/industry associations at times and locations that suited them best.

## Legislative Review

The Taskforce commissioned a scoping study of opportunities for legislative review to help remove regulatory burden on industry and business in the ACT. The wide-ranging legislative review to review key legislation to:

- Reduce the need for businesses to contact multiple Government agencies; and
- Ensure legislation across the ACT supports new business models to grow the digital economy.

The review also allowed for the identification of opportunities to reform legislation to ensure regulatory settings remain fit for purpose and consistent with best practice principles.

Potential review projects were identified throughout the following processes:

- Scan of the entire ACT primary legislation database;
- Jurisdictional review of recent regulatory developments in the Commonwealth, the States and New Zealand; and
- Review of the outcomes of stakeholder consultations conducted by the Taskforce.

## Alignment with, and delivery of, the Commonwealth's Deregulation Agenda

The Taskforce while progressing its work program has also been facilitating the ACT's contribution to nation-wide regulatory reforms, principally through the Council on Federal Financial Relations, through to National Cabinet.

The Taskforce represents the ACT Government across several Commonwealth working groups for a variety of regulatory reform projects. These projects include:

- Modernising Business Communications - Modernising Document Execution (MDE);
- Improving Occupational Mobility - Automatic Mutual Recognition (AMR); and

- Overlapping Regulation.

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**ACT**  
Government

# Discovery Phase Report

## Better Regulation Taskforce

April 2022

Chief Minister, Treasury and Economic Development Directorate



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# INTRODUCTION

**The Better Regulation Taskforce will assist in driving Canberra’s recovery from the COVID-19 pandemic and will support long-term economic growth by putting in place best practice regulatory settings.**

The ACT is one of the smallest and yet one of the strongest economies in Australia. The COVID-19 pandemic has had a profound effect on every economy around the world and although robust, the ACT economy has not been immune to these new challenges ([Appendix A](#)). The pandemic has seen the introduction of new regulations and has exacerbated the burden of some existing, yet outdated, regulatory frameworks. It has highlighted the need for more productive and responsive relationships between government and business in order to improve regulation and reduce burden. The continually evolving landscape of COVID-19 requires flexible government responses and fit-for-purpose regulation.

The Better Regulation Taskforce (the Taskforce) was established as part of the ACT Government’s response to the COVID-19 pandemic. Within this context, the Taskforce has examined and applied lessons learned during the COVID-19 response, such as maintaining clear and open communication; prioritising adaptability and rapid action; and engaging with risk to achieve the best outcomes for business in the ACT.

The Taskforce’s focus is to make it easier to do business in the ACT. The Taskforce will support business to start, run and grow by putting in place better regulatory settings, and simplifying interactions between business and government.

This is a three-phase program of whole of government work over two and a half years led by the Taskforce. This includes a Discovery Phase, Analysis and Recommendations Phase, and Implementation Phase to be conducted and implemented concurrently, where possible.

Across these phases of the better regulation work program, the ACT Government will consult extensively with stakeholders to explore, validate, test and revise ideas and opportunities for reforms to regulation. Due to the changing context and conditions of the COVID-19 pandemic, the approach to delivery of this program has, and will continue to be, adaptive and sensitive to the changing context within these phases.

This report reflects on the Discovery Phase. It presents the Taskforce’s discoveries and the ACT Government’s Better Regulation Agenda to make it easier to start, run and grow a business in the ACT.

# WHAT IS REGULATION?

**“[business] can find it difficult to distinguish the jurisdictional source of regulatory problems...[and] often it is the accumulation of regulation that is the main problem.”<sup>1</sup>**

Regulation encompasses instruments made by governments that place legally enforceable obligations on business and community. This is the “black letter law”, including legislative acts, regulations, and instruments. The term can also include supporting documents, such as codes of practice, guidelines, advice, and notices. What we heard during our engagement was that business does not necessarily differentiate between statute, rules or guidance and the totality of all dealings they have with government to carry on their business. ‘Regulation’ in this sense goes further and includes the ways that government communicates with business as well as regulator culture and practice.

Time and money spent by business on regulatory compliance is known as the ‘burden of regulation’. If the burden is too great, it may divert business away from productive activities, “stifling their capacity to innovate, be entrepreneurial and respond creatively and quickly to market opportunities or threats.”<sup>2</sup>

However, the burden of regulation cannot be properly understood or addressed without recognising that regulation is an asset not only to government but also to citizens and business:

**“... demands for regulation come from citizens affected by unfair trading, monopolies, externalities and market failures... and from businesses who gain from regulation in the form of market protection, subsidies, and title protection—those who want regulation to create the certainty they need to go about their business decisions.”<sup>3</sup>**

When the value of regulation is understood, it becomes clear that regulatory reform is not reducing regulation per se, it is about finding solutions to make regulation better.

For decades, governments have endeavoured to strike the appropriate balance of achieving the legitimate aims of regulation whilst minimising unnecessary burden by refining how, when, and why it regulates. Many deregulation agendas and strategies have been deployed by governments responding to calls to rationalise the growing volume of regulation by simply reducing quantity. The success rate of such agendas has been poor.

Making regulation better is a complex task. It starts with an understanding and acknowledgement that regulation is warranted and needed and that not all regulation is a burden. It requires deep thinking about how to determine when regulation is no longer fit for purpose and the quantitative and qualitative measures we can use to assess when this point is reached. It involves the development of a framework for regulatory quality so that efforts to improve regulation are co-ordinated, enduring, and sustainable over time.

The ACT Government has long been committed to better regulation and has implemented a range of measures to improve regulatory quality (Box 4 – [Appendix G](#)). Access Canberra was established to provide a one-stop shop for ACT Government customer and regulatory services and to make the community’s access to government services easier, simpler, and faster. Since its inception, Access Canberra has consistently advocated for principle-based regulation and a risk-based approach to ensure that its compliance responses and actions appropriately respond to the level of risk and harm.

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<sup>1</sup> Productivity Commission 2011, *Identifying and Evaluating Regulation Reforms*, Research Report, Canberra, p.xvii.

<sup>2</sup> NSW Government Treasury, 2019. *NSW Government Guide to Better Regulation*. Sydney, p 5.

<sup>3</sup> Freiberg, Arie; Pfeffer, Monica; and, van der Heijden, Jeroen (2021). *Regulation and the war on red tape: A review of the international academic literature. State of the Art in Regulatory Governance Research Paper – 2021.10*. Wellington: Victoria University of Wellington/Government Regulatory Practice Initiative, p 3.

Access Canberra has continually reviewed processes to ensure best practice. The Event and Business Coordination (EBC) team has seen the removal of duplication and overlap of government processes across 17 different entities, issuing nearly 30 approvals through the application of a ‘tell us once’ principle. The EBC has provided business with one-on-one support, saving companies valuable time and resources that otherwise would have been diverted to navigating the regulatory framework.

Building on this strong history of regulatory reform and the findings of the Discovery Phase, the Better Regulation Agenda sets out clearly identified deliverables to achieve the right balance of regulatory outcome and burden. The Agenda removes unnecessary and unwarranted burdens while supporting regulator practice and performance for the benefit of not just business, but also the ACT community.

## THE DISCOVERY PHASE

The Taskforce has undertaken a multifaceted approach to understand the changes that could be made to achieve best practice regulation and improve the business user experience when interacting with the ACT Government. The Taskforce’s Discovery Phase approach and methodology are detailed at [Appendix B](#).

During the Discovery Phase, the Taskforce collaborated directly with businesses to provide the opportunity to contribute ideas and solutions that would best support their success. These ideas build on the already embedded ‘how can we help?’ approach of government agencies and regulators, with the view of improving the experience for everyone. A catalogue of what we heard from business is at [Appendix C](#).

The Taskforce also commissioned a wide-ranging Legislative Review to identify potential projects for reform. The potential projects developed through the Legislative Review have been considered alongside the other inputs into the Discovery Phase and have informed the Better Regulation Agenda. A summary of the findings of the Legislative Review is provided at [Appendix D](#).

Finally, the Taskforce has considered regulatory reform approaches elsewhere in Australia and abroad. Key understandings from a jurisdictional analysis to inform a regulatory quality framework are provided at [Appendix E](#).

The issues raised by business with the Taskforce during the Discovery Phase can be broadly categorised as issues covering:

- existing policy and legislative frameworks; and
- the business experience when interacting with government, including regulator capability and support.

For each emerging issue, we have summarised the perspectives and ideas we heard from business. We have also linked to relevant projects identified through the Legislative Review and noted relevant learnings from other jurisdictions, including the Commonwealth Deregulation Agenda ([Appendix F](#)) and regulatory quality framework fundamentals ([Appendix G](#)).

# FINDINGS – POLICY AND LEGISLATIVE FRAMEWORKS

## SME Procurement

During our stakeholder consultation, we heard that business, particularly small and medium enterprises (SMEs), expressed a strong desire for assistance in understanding government procurement requirements, as well as support when bidding for government procurement opportunities.

We heard that the ACT Government procurement system can be confusing for business. Government procurement has its own language, processes and requirements. This can make it difficult for business to recognise the opportunities available, and even when they do, to understand how to take up those opportunities. Confusion and a lack of clarity extends to the operation of panels (business is unsure about how and when they are refreshed), as well as the processes around the ability to make unsolicited bids.

SMEs desire tailored information and guidance to support them to bid for ACT Government contracts. Government could assist by providing clear pathways to follow which make it easier for a business to check their eligibility to bid for ACT Government contracts.

Business suggested a central place where SMEs can go to access public-facing procurement information and supports. This could include toolkits and guidelines (in plain English), 'how to' videos, tables which summarise all existing panels and their refresh dates, and an SME supplier list (pre-vetted against the procurement values).

Women-owned and -led business and Aboriginal and Torres Strait Islander-owned and -led business both identified that more could be done to increase their participation in ACT Government procurement processes, including by challenging perceived bias.

While acknowledging the importance of the government procurement values and social procurement, business noted that it can be difficult to understand how the time it takes to respond to these criteria in procurement documentation is aligned with the weighting assigned to it in assessing procurement responses. There could be greater clarity given about Territory objectives for small business, and how business can reach those objectives. A common piece of feedback was that if government is seeking to achieve targets or quotas, then these should be shared with industry. For example, stakeholders suggested using quotas for female representation through procurement processes and contracting, as this is more likely to achieve intended outcomes (i.e., an increase in female representation in certain industries).

Stakeholders identified liability and insurance provisions in ACT Government contracts as a potential barrier for SMEs. They suggested that the contract liability and insurance provisions be reviewed and reformed, including those clauses relating to uncapped liability, consequential loss and proportionate liability.

Business also conveyed that the existing procurement framework should be reviewed on a regular basis. For example, business considers that existing procurement thresholds lacked currency and a review of these thresholds could align the ACT with other jurisdictions. A best practice framework should also communicate the importance of government procurement directions and/or policy objectives to industry and appropriately weight them and provide greater certainty to industry through forecasting of procurement opportunities. This is particularly the case in relation to the ACT's future infrastructure spends.

The ACT Government has in place the *Canberra Region Local Industry Procurement Policy* (LIPP). This policy sets out the requirements for Territory entities to consider local capability and capacity and economic benefits for the Canberra Region when determining the best available procurement outcome. Business told

us that the implementation of this policy was not always clear to see and so there may be an opportunity to consider if this framework is achieving government objectives.

Establishing a procurement framework that is fit for use by SMEs is inextricably linked with an increase in ACT Government knowledge and capability in procurement. Business noted that an increased level of capability and skills across government will assist SMEs as potential suppliers because it will result in:

- improved level and quality of feedback provided by ACTPS procurement officers to SMEs, which businesses need to learn from their mistakes. Where feedback is provided, it often provides little utility to help business improve their bids in the future;
- consistency in the approach to procurement across Territory entities;
- a greater level of comfort for the people running procurement to confidently communicate and answer respondent/tenderer questions, whilst also complying with probity requirements; and
- a better understanding of risk and how to appropriately manage it depending on the circumstances of the procurement.

### Alignment with Legislative Review

The Legislative Review identified a project to standardise procurement processes across ACT Government (Project 2 – [Appendix D](#)).

This project would not involve the removal of regulatory requirements imposed on business. However, the measures proposed are likely to have a direct positive impact on smaller businesses in the ACT.

The Legislative Review examined the potential for a legislative framework to apply standard procurement processes for Territory entities including the following specific measures:

- appropriate risk assessment and management practices and standards (including insurance requirements for contractors);
- obligations to provide information/feedback concerning tenders; and
- a review of policy regarding local content in procurement decisions (noting the ability to impose local preference policies might be found to be limited under law or by various intergovernmental agreements or other policy arrangements to which the ACT is a party).

### Alignment with Jurisdictional Analysis

Many jurisdictions have publicly committed to a set of best practice principles for regulation. These principles traditionally include a principle relating to managing the stock of regulation.<sup>4</sup> These principles highlight the importance of a periodic review of existing regulation to ensure it remains efficient and effective.

## Night-time/entertainment economy

As demonstrated by the economic indicators, the ACT's night-time economy and entertainment sectors were particularly adversely affected throughout the COVID-19 pandemic and had to manage public health restrictions in 2021, while most of Canberra had returned to low or zero restrictions.

Business raised the need for continuous review and improvement to address regulatory issues faced by the night-time economy and entertainment sectors, with particular focus on noise, outdoor dining and liquor licensing.

The Taskforce's 'night-time economy' workshop highlighted the following issues raised by business concerning the current regulatory framework:

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<sup>4</sup> See for example the COAG agreed Principles of Best Practice Regulation and the NSW Better Regulation Principles at [Appendix E](#).

- a more coordinated approach to approvals and regulations in this sector;
- the effect of existing fee structures on business operating at different scales;
- noise management, especially the decibel thresholds and framework for environmental noise limits, 'order of occupancy' considerations and the cost to business in developing compliant noise management plans;
- an integrated policy setting out the vision for a vibrant entertainment/night-time economy; and
- regulatory co-operation, included clear information compliance requirements and inspections, and a more flexible regulatory approach to consider the reduced risk posed by highly compliant and 'safe' businesses.

### Alignment with Legislative Review

The Legislative Review identified a project to review the full legislative and regulatory arrangements for the entertainment economy, which extends across the industry sectors of accommodation and food services and arts and recreation services (Project 1 - [Appendix D](#)).

This project was identified through consultation which raised numerous and ongoing barriers faced by the sectors of accommodation and food services, and arts and recreation services, particularly throughout the COVID-19 pandemic.

The Legislative Review noted that there are many small businesses in the ACT seeking to operate in these sectors that have expressed concerns regarding the lack of a coordinated approach to approvals and regulations around operating their business. The hospitality and entertainment sectors have great potential to make a significant contribution to the ACT economy, the jobs market, and the way of life of Canberrans generally.

A review of the entertainment economy contemplates a fundamental re-organisation of regulatory arrangements affecting the 'entertainment economy'. The review would examine legislation and regulatory practice in areas including land use, food and beverage regulation, and noise control. It should also consider appropriate alternatives to arrangements currently requiring prior approval.

### Alignment with Jurisdictional Analysis

Many jurisdictions have publicly committed to a set of best practice principles for regulation. These principles usually always include principles to ensure that the objectives of government action when regulating are clear and that the impact of government action should be properly understood, by considering the costs and benefits (using all available data) of a range of options, including non-regulatory options.<sup>5</sup> These principles highlight the importance of a holistic approach to regulatory reform.

## Occupational Mobility

We heard that having access to skilled staff was a common issue raised by business, particularly in the context of COVID-19.

We heard that business wants to ensure that there is reciprocal recognition of licences to support occupational mobility from interstate. This includes a broad program of Mutual Recognition being undertaken at a national level, including the removal of barriers to the recognition of interstate responsible service of alcohol certificates.

We also heard that existing regulatory frameworks around training for responsible service of alcohol may be producing unintended barriers to interstate recognition of these qualifications.

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<sup>5</sup> See for example the COAG agreed Principles of Best Practice Regulation and the NSW Better Regulation Principles at [Appendix E](#).



Further messages from business about accessing skilled staff is provided at [Appendix C](#).

## Alignment with Jurisdictional Analysis

The Automatic Mutual Recognition of Occupational Registrations (AMR) scheme forms part of the Commonwealth's Deregulation Agenda ([Appendix F](#)). AMR removes the need for people to apply and pay for an additional registration or licence when working in another state or territory, saving them time and money.

AMR came into effect on 1 July 2021. It applied automatically in the ACT from that date. As a transitional arrangement, most of our occupational licences are temporarily exempt from AMR until 1 July 2022. The Taskforce is working with ACT Government directorates and agencies to introduce AMR across a range of ACT occupational licences and registrations.

## Cross-border alignment

From our engagements, we heard that business believes that our regulatory approach could be improved if the ACT strived to have identical or similar laws to those in NSW, unless there is good reason not to do so.

Business also suggested the ACT compare and contrast its performance to that of nearby regional NSW. The ACT should at least match, or better, the operating environment for business in NSW.

## Alignment with Legislative Review

The Legislative Review proposed a general review of ACT and NSW business regulation legislation to maximise cross-border alignment with NSW, with a focus on legislation having significant impact on small business (Project 4 – [Appendix D](#)).

This project is highly relevant for the ACT as a small jurisdiction surrounded by regional NSW. Many businesses, including many SMEs, operate both within the ACT and surrounding areas of NSW. Compliance costs, due to a lack of regulatory alignment, disproportionately impact small business. A review of regulation and analysing opportunities for regulatory alignment with NSW would clearly make it easier to do business across the ACT and NSW.

The Legislation Review recommended that this review focus on legislation with particular impacts for small business, including subordinate legislation and other instruments made under the Acts listed. Other legislation could be identified during further consultation.

A full review of the alignment of ACT legislation with that of NSW would require detailed examination of legislation and regulatory practice across both jurisdictions. This would require consideration of a wide range of policy questions where divergences are identified.

## Supporting Digital Technology

Business is supportive of regulatory frameworks that do not act as a barrier to the integration of digital technology to simplify business-to-government interactions.

The COVID-19 pandemic has fast-tracked the digitisation of many aspects of our economy. More than ever, individuals and businesses are relying on digital platforms to do business. Regulation that is outcomes-focused and technology neutral can allow businesses to freely adopt whatever technology is most appropriate to achieve the outcomes. Some examples that we heard of Territory legislation which is not technology neutral include:

- references in legislation to cheques as a method of payment;
- existing methods of executing formal documents; and
- model rules for incorporated associations.

The adoption of machine-readable law/rules as code was also raised by business during the Discovery Phase. Where regulation is machine-readable, industry and government can embed digital rules directly into their IT systems to streamline compliance and automate any changes in the future. Underpinning a 'rules as code' approach is a move away from regulation that contains decisions made by regulators based on subjective, rather than objective, criteria. Business has stated that this provides certainty and clarity.

### Alignment with Legislative Review

The Legislative Review identified a project to review legislation to remove any obligations requiring use of a particular technology, including paper-based documents (Project 3 – [Appendix D](#)). This project would focus on a broad review to ensure updates to legislative vernacular to remove outdated technologies.

Although reforms of this kind have been undertaken in the ACT over recent years, there are benefits from a further review of legislation, statutory instruments and administrative practice in this area. The objective is to enable full use of modern digital technology appropriate to the circumstances. Reviews of these kind are currently underway in other jurisdictions, including the Commonwealth.

The removal of requirements to provide information in a specific manner will minimise costs to business. Scrutiny of such legislation and other regulatory practices also provides an opportunity to identify and remove requirements that are unnecessary or overly prescriptive. This project would review legislation and regulatory practices which require, or presume, communications by means of a particular technology, such as a paper-based notice or a meeting requiring personal attendance. This includes arrangements currently suspended because of the COVID-19 pandemic.

### Alignment with Jurisdictional Scan

The New Zealand Government has implemented a range of initiatives aimed at avoiding burdens for small business. The 'Better Rules Better Outcomes' initiative is aimed at simplifying existing regulation and employs a methodology to assist people and businesses to understand, benefit from and comply with legislation in an automated way. The Better Rules approach allows for legislation to be developed in software code, as well as written language, from the start. It avoids the need for later translation of legislation into software language, avoiding the risk of incorrect interpretation. The Better Rules methodology will be particularly helpful for activities like calculating eligibility criteria for a benefit, and financial reporting obligations. It is the human-centred design (HCD) approach which is embedded in a 'rules as code' approach which is valuable and capable of delivering significant benefits to business.

## Business Licences and Renewals

During our consultation, business conveyed that licence renewal is a task that can take up significant time and managerial effort. Business would like greater flexibility by being given the option for multi-year regimes, as well as annual renewals.

We also heard that some existing licensing frameworks may no longer be fit for purpose. There would be benefit in reviewing specific frameworks to ensure that the regulation remains fit for purposes, such as the existing framework for employment agents' licensing.

Business raised other focus areas which require further analysis, including consideration of a potential licensing framework for individuals such as motor vehicle repairers.

### Alignment with Legislative Review

The Legislative Review did not identify a specific project on licensing and renewals. However, as part of the general recommendations of the Legislative Review, it is noted that it will be appropriate to consider whether an activity which currently requires prior approval from a regulatory authority could be managed in a different way.

## Alignment with Jurisdictional Scan

In NSW, a similar arrangement is often referred to as 'negative licensing', particularly where the sanctions include a power to prohibit a person from providing the service at all. In 2021, the NSW Productivity Commission released the *Productivity Commission White Paper*<sup>6</sup> which recommended whole-of-system reforms, including adopting a negative licensing approach for low-risk licenses and activities.

## Reduce Regulatory Overlap

During our engagements, we heard that business feels it is inefficient when they are required to provide the same information to different entities. Regulatory overlaps may result from either requirements arising under legislation, or by reason of regulatory practice (routine requests for information, standard forms, etc.). Business perceptions about overlap could also equally be discussed as part of the findings for 'Business Experience and Regulator Performance' outlined below. They have been summarised here to avoid repetition.

Business is seeking a government approach where it adopts a 'tell us once' principle so that business must only submit similar information to ACT regulators once, where appropriate. Examples provided by business included the provision of information about changes or updates to board/committee members and the repeated provision of the same information to different ACT entities during the pre-qualification and procurement processes for construction.

This principle could also be adopted for other information requirements relating to licensing (for example, the fit and proper person test).

## Alignment with Legislative Review

The Legislative Review identified a project for a review of regulator/regulation overlap and duplication to reduce touchpoints, with a focus on legislation having significant impact on small business (Project 5 – [Appendix D](#)).

Businesses, both in the ACT and across Australia, have expressed concern about regulatory overlap and duplication that has significant financial and time cost impacts. Often this experience can involve the need to deal with different regulations and different regulators for the same, or a similar, activity. Stakeholders seek simplified business-to-government interactions and a 'tell us once' approach.

A review would identify areas of overlap or duplication which could be streamlined to make processes simpler and more transparent. This project aligns with Commonwealth government objectives to streamline processes and eliminate duplication.

This review would involve further consultation with business to identify any other areas where regulatory overlap may exist and where its removal would have practical benefits for business.

The Legislative Review recommended that this review be targeted initially at least to the legislation with small business impacts and any other reviews relating to licensing duplication currently in progress or under consideration by ACT directorates and agencies.

## Alignment with Jurisdictional Analysis

This issue aligns with the Commonwealth Deregulation Agenda ([Appendix F](#)) to reduce unnecessary compliance costs to business when meeting 'overlapping' regulatory obligations between different agencies or governments. The Commonwealth has developed a workplan of ten practical projects to provide, wherever possible, information on regulatory experience across the Australian economy.

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<sup>6</sup> NSW Government, 2021. *Productivity Commission White Paper - Rebooting the Economy*. Sydney.

This issue also aligns with Commonwealth objectives to implement a stewardship approach to streamline processes and eliminate duplication.

Regulatory technology (RegTech) is often touted as a solution to ‘tell us once’ problems. New Zealand has invested in a comprehensive RegTech solution which assists in alleviating and remediating regulatory overlap. Business Connect<sup>7</sup> is a digital service platform which enables businesses to:

- access and manage their business information from one place;
- use the data government already holds about them – their New Zealand Business Number (NZBN) – to pre-populate the information they’re most often asked to share;
- re-use the information they’ve previously provided to government;
- connect digitally across both local and central government; and
- more easily meet their compliance obligations.

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<sup>7</sup> Businessconnect.govt.nz. 2022. *Making it easier to do business with government*. [online] Available at: <<https://businessconnect.govt.nz/>> [Accessed 10 March 2022].

# FINDINGS – BUSINESS EXPERIENCE AND REGULATOR PERFORMANCE

## Simplification of government-to-business interactions

Businesses were asked to share their experience of interactions with government and the ease of doing business in the ACT. Improvements were suggested for some processes and approvals associated with running a business or holding a major event in the ACT. Ideas were also suggested for potential innovation and simplification for business and government interactions.

We heard that some approval processes can be difficult and drawn out. Business is looking for government to provide updates on the progress after the lodgement of an application. Processes and approvals would be supported by improving processing times and communications on the progress of applications, applying a 'yes' first regulatory culture and explaining 'how' stakeholders can do or achieve an outcome. Collaboration and feedback would be supported between those working on the ground, directorates and agencies with the policy responsibility and regulated entities to devise mutual improvements to processes.

The 'tell us once' Principle was perceived as significant action that government could pursue to simplify government to business interactions. This is explored further in 'Reducing Regulatory Overlap'.

Similarly, the requirements for licence renewals and the duration of business licences were also seen by business as an imposition. This is explored further in 'Business Licences and Renewals'.

## Alignment with Jurisdictional Scan

The Productivity Commission<sup>8</sup> has recommended that Ministers be empowered to suspend certain regulations where an emerging business model is not compatible with an existing regulatory framework. Under the banner of 'Say Yes', regulators can take a more proactive approach and work with innovative businesses to test and closely monitor new models in a live environment where regulatory requirements might be lowered. Importantly, the sandbox concept might encompass innovative regulatory practices, rather than suspending or exempting requirements under law.

The recently released *Regulator Performance Guide* by the Commonwealth includes a principle of regulator best practice on regulator engagement and collaboration. The Guide notes that in practical terms, demonstrating collaboration and engagement means regulators 'implement innovative approaches in considering regulatory or policy issues such as 'regulatory sandboxes''.

## Small business information and communications

Small business operators are diverse, requiring varied communication needs and engagement preferences. Through our engagements, we have heard business has limited time and resources to seek out relevant government information. Providing information that is targeted, accessible and easy to read is a simple but effective measure to assist business. Business has suggested that government could:

- ensure legislation, policy, procedures and factsheets are written in plain language;
- improve factsheets and checklists to support business understanding and compliance, as well as preparedness for inspections;
- provide simple, accessible training to support compliance; and
- clarify the ACT's regulators and Ministerial portfolio responsibilities and 'who does what', so business knows who to speak to about specific issues.

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<sup>8</sup> Productivity Commission, 2055, *Business Set-up, Transfer and Closure*, Report no. 75, Canberra, p 205.

Most prefer business-specific communication channels over general channels, and there is a strong preference for digital information over hard copy materials.

Business has different information needs depending on what stage of the business life cycle they are in. There is a need for information and advice at key growth stages as businesses develop and take on new responsibilities such as hiring staff or embracing more sophisticated management approaches.

Website information is valued by business where that information is clear, easy to read and use, and regularly updated for currency (including accurate links). From a RegTech perspective, business would like to be able to access information across a range of digital devices, including mobile phones and other personal digital devices.

While valuing the flexibility of being able to access targeted and current online information, another common sentiment across business was the need to talk to an individual within government. Essentially, business is looking for reliable and accessible points of contact within government to troubleshoot queries and difficulties with subject matter experts.

Business suggested various methods (physical and virtual) to provide targeted information and advice to support them in starting, running, and growing a business in the ACT. These included:

- an easy to access business hub to better connect business with government, including getting information on available business support, i.e. rebates and grants with industry-specific support; and
- a business concierge service which provides a dedicated agent who can answer questions about what services and supports are available to business, and how to access them.

Business would also like advance warning about regulatory changes likely to impact on business costs, trading hours or employment practices in order to provide sufficient time to allow for the necessary changes to be made to operations. Additionally, the communications and engagement approach should ensure that small business advisors (e.g., accountants, legal advisors) and peak bodies are included as key audience groups as they play an active role in filtering and nuancing information for their small business clients.

### Alignment with Jurisdictional Scan

Governments commonly establish on-line resources for business to support them at all stages of their development. The scope of on-line services varies but should include:

- advice for business on how to start, run and grow a business;
- links to other programs of support for business;
- access to specialist business advice;
- educational material and templates for use by business; and
- concierge/one-on-one business engagement.

The Western Australian Small Business Development Corporation is a state government agency that provides advice and low-cost services to small business owners in Western Australia. Among a wide range of services and business advice, the hub also includes a business licence finder. The finder produces a list of core and related licences and approvals, including Commonwealth requirements and relevant codes of practice that might apply. Users can conduct a search based on business type or can search for information on specific licences.

## Regulator Practice (understanding business)

Engagement with business has shown where some government approaches to regulation can be improved to enhance clarity, capability, culture, and employing a continuous improvement approach.

There is a perception that government could do more to better understand business.

Business suggested that government considers the impact of regulation on business, starting with the gathering of data on business impacts by:

- regularly measuring the burden of regulation on business both actual and perceived through annual or bi-annual surveys; and
- ensuring that the regulation is justified through cost-benefit analysis.

Through our engagements we heard that business prefer to speak with people who have lived experience with running a business and who understand the intricacies and challenges. A number of suggestions were put forward by business to improve business literacy in the government, including:

- encouraging government to actively recruit public service candidates with a former business or business-enabling background; and
- educating regulators to understand the experience of the business community and help support productive dialogues, possibly through professional placements within industry associations.

Aligned with the idea of 'better understanding business', we heard that business strongly supports using co-design processes to bring business stakeholders into earlier parts of the regulatory design stage.

In designing regulation, business called for the ACT to lead the way by applying a 'think small first approach' to regulation, wherein laws are written first and foremost for small business, considering their ability to apply. If a greater standard of compliance is expected of larger firms, then this should be an explicit addition to the law. When action is taken by government to enforce regulation, business would like regulators take the time to understand the perspective of regulated entities (i.e. 'walking in the shoes' of business).

There is also the perception that government could do more to help business understand what government requires of business and to consider how compliance can be made more straightforward for business.

This is particularly the case where business must engage with multiple regulatory agencies, government and regulators. Government can alleviate the burden of compliance on business through:

- ensuring appropriate co-operation and coordination, (for example coordinating inspections and where possible, holding them at off-peak times); and
- investing in, and using, digital technology (RegTech) to ease interactions with government agencies.

There is little doubt a digital account for business could provide significant benefits to business to complete all their interactions with government in one place. A digital account for business is strongly aligned with a 'tell us once' principle which is discussed further at 'Reducing Regulatory Overlap.'

Regulatory compliance could be more straightforward for business through an online portal that allows business to:

- quickly understand which regulations apply to them;
- obtain clarity on what is required of them;
- access educational material on how they can fulfil their requirements;
- obtain advice and guidance for business at various stages on the business lifecycle would assist in making; and
- provides linkages to other forms of business support across ACT Government, including grants and procurement.

Making compliance more straightforward for business is integrally linked with the discussion in this report regarding 'Small business information and communications'.

## Alignment with Legislative Review

The Legislative Review proposed a project to introduce legislation to improve regulator performance (Project 6 – [Appendix D](#)).

The objectives would be to improve regulator performance and provide benchmarks for business. This could include obligations on regulators to actively manage regulatory frameworks and advise on where it continues to be fit for purpose. This is known as ‘stewardship’.

This would also include the phased introduction of a standard suite of regulatory powers, to enable regulators to engage in more flexible and proportionate regulation through a well-understood suite of tiered enforcement options.

Ensuring continuing improvement and standards for regulator best practice and performance will benefit business. This could be achieved through changes to legislation to support better regulatory settings and practices. The Productivity Commission has noted studies showing that up to 50% of unnecessary costs for business are due to how regulators implement regulations.

## Alignment with Jurisdictional Scan

The concept of ‘stewardship’ has been promoted in several jurisdictions. The objective is to impose duties on regulators to assess effectiveness and appropriateness of legislation and regulatory practice on a regular basis.

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# BETTER REGULATION AGENDA 2022-23

We have listened to business and have heard that business wants:

- government to better understand the needs and experiences of business;
- information for business to be clearer and targeted to business;
- to only tell government once;
- to know where they can go to get help and for there to be someone they can talk to who understands business;
- government to 'think small first';
- government to say 'yes' whenever it practicably can;
- government to be more transparent, coordinated and consistent; and
- streamlined, faster processes and approvals.

Considering these findings from the Discovery Phase, the Taskforce has developed an Agenda for Better Regulation for the ACT which will be implemented progressively during 2022 and 2023.

Through its Better Regulation Agenda, the ACT Government is putting in place the best settings for business recovery, longer-term growth and regulation in the ACT. The ACT Government is making government-business interactions better, faster, and simpler through identifying and making improvements to the rules, regulations, government processes and available information and supports for business.

The Better Regulation Agenda will ensure that Canberra is a place where it is easy to start up and run a business. It supports regulators to create certainty for business, ensures consistency of information and facilitates clear and open business-government communication on regulatory issues.

The Better Regulation Agenda is comprised of two key streams of focused government reform action:

- **Policy and Legislation** – making continual improvements to the rules, regulations, and processes; and
- **Business Experience and Regulator Performance** – making government-business interactions better, faster, and simpler.

These streams will be progressed in parallel so that improvements for business are delivered as quickly as possible. A snapshot description of the 2-year Agenda is at figure 1 below.

**Figure 1: Better Regulation Agenda – 2 year work program**

**Stream 1: Policy and Legislation**

**Review legislation, policies and processes with an SME lens to support best practice procurement framework**

This will include a consideration of:

- Local Industry Participation and Aboriginal and Torres Strait Islander Procurement policies to ensure that they are achieving their objectives.
- Not for profit procurement reporting requirements.
- Requirements around liability and insurance provisions.
- Government panels and the process for refresh of these mechanisms.
- Procurement thresholds
- Understand the cost on business in responding to ACT procurement to ensure proportionate tender requirements.
- Review of the current systems for collection of procurement data.
- Ensuring that the program of external Continuing Professional Development offerings on ACT Procurement include content geared towards SMEs.

**Ready the ACT for the commencement of Automatic Mutual Recognition (AMR) of occupational licensing**

- Put in place legislative instruments to ensure the effective operation of AMR in ACT.
- Ensure that there is alignment where possible with other states and territories.
- Work with regulators to ensure there is clear, consistent information available for workers on how AMR works in the ACT.

**Develop options to improve existing regulatory arrangements**

Initially focusing on:

- The execution of statutory declarations and deeds in government and business processes.
- Model rules for Incorporated Associations under the *Associations Incorporation Act 1991*.
- References to outmoded payment methods (including unnecessary references to cheques) in legislation.
- ACT refresher training courses for interstate Responsible Service of Alcohol certificate holders.
- The licensing of employment agents under the *Agents Act 2003*.

**Night-time and Entertainment Economy: Regulatory Quality Framework Approach**

- Applying the draft ACT principles, work with industry and across government to review the policy, legislative, regulatory and process requirements that “frame” the night-time and entertainment economy industries.
- Support work underway under the *Parliamentary and Government Agreement* to amend planning legislation to provide for a city entertainment precinct.
- Work with Access Canberra to map and streamline applications, licenses and information resources for the industry.
- Work with policy owners to consider core regulatory frameworks of noise and liquor to ensure that they are delivering the objectives of Government.

**Stream 2: Business experience and regulator performance**

**Better understand business**

- Develop a survey of business sentiment to measure the quantity and quality of interactions of business with government over time.
- Develop options to better measure and benchmark regulatory burden.
- Map the end-to-end business user experience.
- Pilot a model for human-centred design for new regulation.

**Clear information for business**

New and improved information and tools for will be provided for business which will include:

- An infographic on who’s who and who to contact in regulatory agencies
- A web resources providing advice and guidance on how to start and run a business in the ACT.
- An overhaul of existing Access Canberra websites to provide this clear information and an entry point for business.

**Targeted support for business to navigate and try new things**

- Introduce a dedicated, proactive business support team to work through a “concierge” model one-on-one with business to educate and problem solve. This would include working with existing or new and emerging businesses to find solutions and enable innovation.
- Develop a customer commitment to finding solutions for business, making it easier to say yes to business ideas while managing the harms and risks that set our requirements.
- Develop a ‘sandbox protocol’ to empower regulators to explore innovative ideas. This may include targeted regulatory exemptions to allow for innovative products or services with appropriate requirements for managing risks and monitoring outcomes.

**“Only tell us once”**

- Better use data to inform regulatory focus and protections
- Through detailed mapping of business experience, identify and streamline sources of reporting duplication.

## Stream 1: Policy and Legislation – Improving Rules, Regulations and Processes

**Review legislation, policies, and processes with a SME lens and bring options to ACT Government to support a best practice procurement framework**

This measure acknowledges the importance of government procurement to business in the ACT. It includes a wide-ranging review of many components of the procurement framework to ensure it remains fit for purpose and is achieving its objective.

**Ready the ACT for the commencement of Automatic Mutual Recognition (AMR) of occupational licensing**  
Business wants to ensure that there is reciprocal recognition of licences to support occupational mobility from interstate. As a cross-border community, automatic recognition of the occupational licences of workers registered in NSW will reduce barriers for ACT businesses to quickly and easily onboard interstate workers.

**Develop options to improve existing regulatory arrangements for:**

- the execution of statutory declarations and deeds in government and business processes;
- model rules for Incorporated Associations under the *Associations Incorporation Act 1991*;
- references to outmoded payment methods (including unnecessary references to cheques) in legislation;
- ACT refresher training courses for interstate Responsible Service of Alcohol certificate holders; and
- the licensing of employment agents under the *Agents Act 2003*.

Several individual reform opportunities have been raised with the Taskforce and warrant consideration by government. These reforms are the first tranche of important 'stock management' measures. We continue to listen to business and regulators to identify other reform opportunities for our future work program.

**Night-time and Entertainment Economy: Regulatory Quality Framework Approach**

The night-time/entertainment economy has been significantly impacted by the COVID-19 pandemic. The hospitality and entertainment sectors make a significant contribution to the ACT's economic recovery, the jobs market and the way of life for Canberrans.

Business has raised several concerns about how this sector is currently regulated. Noise management, a more coordinated approach to approvals, disproportionate burden of fees for differing scales of businesses, an overall lack of integration of policy and lack of clear information on compliance requirements are the concerns that have been raised.

The Taskforce will apply the draft principles for Best Practice Regulation ([Box 1](#)) to this review with the aim of increasing capability and literacy with best practice regulation in the ACT Government.

## Stream 2: Business experience and regulator performance – making government-business interactions better, faster and simpler

### Better understand business by:

- Developing a survey of business sentiment to measure the quantity and quality of interactions of business with government over time.
- Developing options to better measure and benchmark regulatory burden.
- Mapping the end-to-end business user experience.
- Piloting a model for human-centred design for new regulation.

Business has told us that government could improve its understanding of the needs of business. We also heard that business wants government to ‘stand in the shoes’ of business when thinking about regulation. Business wants to be consulted in the design, implementation and enforcement of regulation.

### Clear information for business

Business needs accurate, targeted information from government which they can access how and when it suits them. Business needs information to help thrive in the ACT and needs to know who to reach out to if there is a problem.

Areas of unnecessary duplication in legislation or regulatory practice will be identified and removed.

### Targeted support for business to navigate regulatory requirements and try new things

Business would like to connect directly with someone in government to problem solve and obtain one-on-one support. Business would also like to engage with government when exploring innovative or new ways to do business.

### 'Only tell us once'

Business feels it is inefficient when they are required to provide the same information to different entities. Areas of unnecessary duplication in legislation or regulatory practice will be identified and removed.

# WHERE TO FROM HERE?

## Delivering the Agenda

The Better Regulation Agenda will be delivered by the Taskforce during the remaining two years for which it is funded.

Measures in the two streams will, where possible, be delivered concurrently. An implementation schedule with delivery milestones which takes into account dependencies between several measures will be prepared by the Taskforce in consultation with stakeholders.

The Better Regulation Agenda includes measures that span several directorates and agencies, including Economic Development and Access Canberra. Some reforms will be delivered by the Taskforce, while others will involve delivery led by the subject matter experts in ACT directorates and agencies.

The Taskforce will retain an oversight and co-ordination role for all measures on the Agenda and will report on progress of delivery of the actions against the Agenda.

The Taskforce will continue to monitor business sentiment regarding the quantity and quality of interactions of business with government over time. This will inform options for continuous improvement of the ACT's regulatory framework.

The next key reporting milestone will occur in early 2023 to report on progress against the Agenda.

## Towards A Regulatory Quality Framework

Regulation that is done well can boost the economy and deliver the best outcomes for ACT business, consumers, and the community at large.

Our analysis of regulatory reform approaches across Australia and abroad has shown that there is no single 'right way' to improve regulatory quality. Each jurisdiction has its own approach, processes, and arrangements to suit the specific regulatory landscape. What is common, however, is a recognition that achieving best practice and better regulation is usually underpinned by a framework that focuses on regulatory quality ([Appendix G](#)).

Many elements of a regulatory quality framework are already in place in the ACT (see [Box 3 – Appendix G](#)). Over the next two years, the Taskforce will draw together these existing elements, test new ideas and co-design a co-ordinated and coherent regulatory quality architecture for consideration by ACT Government.

Drawing on this survey of best practice examples from Australia and beyond, as well as our engagement with business, the Taskforce has developed for consideration a set of draft principles to guide the next phase of work of the Taskforce. The principles are draft because they need to be tested for the coherency, effectiveness, and applicability in the ACT context.

As the Taskforce works to implement the Better Regulation Agenda, it will adopt opportunities to apply a regulatory quality framework approach, beginning with the application and testing of a set of draft principles for Best Practice Regulation ([Box 1](#)). The Better Regulation Agenda provides a crucial learning and engagement opportunity to test and progress these big ideas while delivering immediate improvements for business.

### Box 1 – Towards Better Regulation – Draft Principles for ACT

Principle 1: Articulate the 'why'

- Regulation should only be introduced and retained where there is a clear need for government intervention – a clear problem to be addressed or a clear outcome the government is trying to achieve.

#### Principle 2: Assess the impact

- As a fundamental part of the policy development for legislation and regulation, an assessment of the impact of regulation (including its impact on wellbeing), within the context of existing regulatory burden, should be undertaken.
- This impact should be considered as a part of the government decision making process, including a consideration of a range of feasible policy options – including non-regulatory approaches.
- The assessment should include an assessment of risk and a consideration of risk appetite and tolerance.

#### Principle 3: Be accountable

- When the government makes decisions about regulation and regulatory approaches, the basis for those decisions and supporting evidence should be publicly available by default.
- Regulator discretion should be supported by transparency and accountability measures.

#### Principle 4: Make room for leading practices

- Regulation should allow regulators and regulated entities to innovate.
- Regulators should have access to a range of compliance and enforcement tools.

#### Principle 5: Put people at the centre

- Utilise human-centred design principles to ensure regulatory systems are effective and efficient.
- At all stages of the policy development and regulatory cycle, regular and effective consultation with stakeholders, especially regulated entities, should occur.

#### Principle 6: Easy to comply

- Regulation should be in plain language.
- Government systems should support seamless interactions between government and regulated entities.

#### Principle 7: Remain effective

- Regulation should be monitored and evaluated periodically to simplify, reform, modernise or consolidate.
- Regulators should regularly assess their delivery approaches and impact on regulated entities.

## Possible Future Program

The Taskforce has heard a range of views on potential options for a future work program. In late 2023, the Taskforce will report to government on potential reform options for 2024 onwards.

Based on what The Taskforce has heard during the Discovery Phase, some potential reform options are described in Figure 2. However, in light of the continually evolving regulatory landscape, these will need to be re-validated before being put forward on any future agenda for regulatory reform.

## Better Regulation Agenda – potential options for future work program

### Stream 1: Policy and Legislation

#### Develop options to improve existing regulatory arrangements

Could include review and recommendation focussed on:

- The best regulatory framework to support the motor vehicle traders industry.
- Remove cross-border inconsistencies with NSW in licensing and other regulatory requirements.
- Security of payments work in construction industry.
- Review of taxi fares.

### Stream 2: Business experience and regulator performance

#### Better understand business

- Develop government-business secondment program to improve government understanding of business context and promote stronger networks.

#### “Only tell us once”

- Move towards a single digital account for business.

### Stream 3: Regulatory Quality Framework

- Develop for Government endorsement an ACT-wide Regulatory Quality Framework

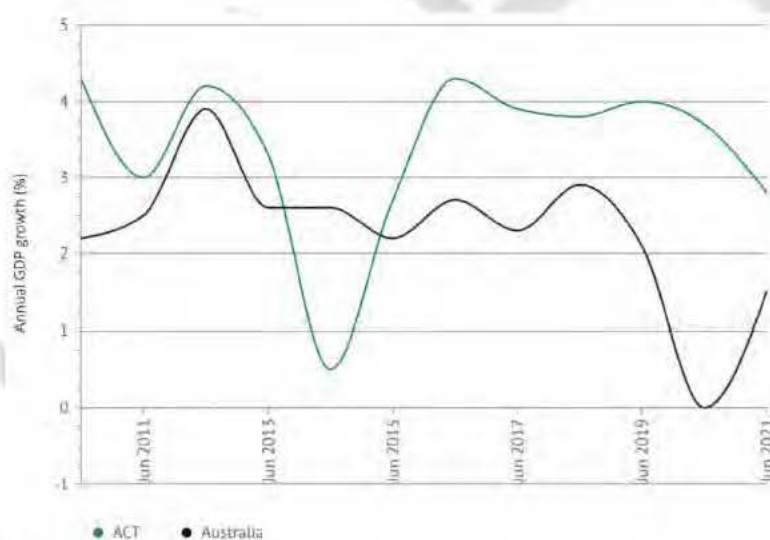
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# APPENDIX A – ECONOMIC AND BUSINESS LANDSCAPE

## Economic Growth

The ACT is both one of the smallest and strongest economies in the country. As of November 2021, it contains a population of 432,300<sup>9</sup> with over 31,000 businesses<sup>10</sup> and has a gross state product (GSP) of over \$43.3 billion.<sup>11</sup> The ACT's economy has grown strongly and steadily since 2015.

Figure 2: Economic growth in ACT - 2010-2021<sup>12</sup>



## ACT Business landscape

The ACT has a unique business landscape that sets it apart from other Australian jurisdictions. The Australian Bureau of Statistics demonstrates a 5.8 per cent increase in the number of businesses in the ACT during the 2020-2021 financial year.<sup>13</sup> This was the largest percentage growth in any state or territory with an increase of 1,732 businesses, bringing the total active ACT businesses to 31,499. Of this amount in this period, the ACT had 11,437 small businesses (1-19 employees) and 18,517 non-employing businesses

<sup>9</sup> Australian Bureau of Statistics. 2022. *National, state and territory population, June 2021*. Available at:

<<https://www.abs.gov.au/statistics/people/population/national-state-and-territory-population/latest-release>> [Accessed 21 February 2022].

<sup>10</sup> Australian Bureau of Statistics. 2022. *Counts of Australian Businesses, including Entries and Exits, July 2017 - June 2021*. [online] Available at: <<https://www.abs.gov.au/statistics/economy/business-indicators/counts-australian-businesses-including-entries-and-exits/latest-release#key-statistics>> [Accessed 21 February 2022].

<sup>11</sup> 5220.0 Australian National Accounts: State Accounts, Table 1. Gross State Product, Chain volume measures and current prices.

<sup>12</sup> SGS Economics and Planning Pty Ltd, 2021. *Australia's Economic Wellbeing*. [online] p.53. Available at:

<[https://www.sgsep.com.au/assets/main/Publications/SGS-Economics-and-Planning\\_Australias-Economic-Wellbeing-2021.pdf](https://www.sgsep.com.au/assets/main/Publications/SGS-Economics-and-Planning_Australias-Economic-Wellbeing-2021.pdf)> [Accessed 21 February 2022].

<sup>13</sup> Australian Bureau of Statistics. 2022. *Counts of Australian Businesses, including Entries and Exits, July 2017 - June 2021*. [online] Available at: <<https://www.abs.gov.au/statistics/economy/business-indicators/counts-australian-businesses-including-entries-and-exits/latest-release#key-statistics>> [Accessed 21 February 2022].



operating.<sup>14</sup> These types of businesses combined, make up over 95 per cent of total businesses in the ACT. In 2020-2021, the survival rate of small and non-employing businesses varied across industries, with an average survival rate of 55.1 per cent for non-employing businesses and 70.5 per cent for small businesses (1-19 employees).<sup>15</sup>

## COVID-19 Impacts

Prior to the COVID-19 pandemic, the ACT had strong economic growth and business performance. The COVID-19 pandemic has and continues to impact the ACT in a myriad of ways. The impact of the pandemic in Australia and the ACT in 2020 was extensive, particularly on micro, small, and medium-sized enterprises. The industries significantly impacted included Construction, Retail Trade, Accommodation and Food Services, and Arts and Recreation Services.

### Emerging from the pandemic in 2020

The ACT performed strongly comparatively in 2019-20, avoiding a COVID-19 recession. Emerging from the initial shock of the pandemic at the end of 2020, the ACT had strong economic recovery and business participation. Particularly, it saw recovery in Accommodation and Food Services, with growth subdued due to ongoing tourism constraints.<sup>16</sup> Nationally, some sectors were particularly hard hit by the emergence of COVID-19.<sup>17</sup> As of April 2020, the following sectors had experienced the most severe reductions in monthly turnover:

- Retail trade (down 23 per cent);
- Accommodation and food services (down 38.6 per cent); and
- Arts and recreation services (down 45.9 per cent).

### Rise of Delta variant and lockdowns throughout 2021

The first half of 2021 was encouraging with the ACT's economy growing by 2.8 per cent in 2020-21.<sup>18</sup> However, the sudden increase of cases across Australia led to further lockdowns in most jurisdictions which severely impacted economic recovery and business viability. Data for the September 2021 quarter shows that ACT, along with NSW and Victoria, saw economic decline as a result of COVID-19 outbreaks and associated lockdowns between July and September.<sup>19</sup> While the ACT entered lockdown under Public Health Orders following NSW, it had already been economically impacted by their lockdown. The ACT had a low drop in labour force participation during the first wave of COVID lockdowns; however, the second wave of lockdowns in the ACT from August 2021 was far more severe. In the context of the discontinuation of the Federal JobKeeper payment labour participation in 2021 fell to 79 per cent and unemployment rose to 6.2 per cent (the highest unemployment rate in the ACT since 1999).<sup>20</sup> Of the ACT's approximately 30,000 businesses, almost a third applied for COVID-19 Business Support Grants.<sup>21</sup>

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<sup>14</sup> 8165.0 Counts of Australian Businesses, including Entries and Exits, June 2017 to June 2021. Released 16 December 2021. Businesses by Main State by Industry Class by Annualised Employment.

<sup>15</sup> 8165.0 Counts of Australian Businesses, including Entries and Exits, June 2017 to June 2021. Released 16 December 2021. Survival of Businesses by Main State by Subdivision by Employment Size Ranges.

<sup>16</sup> SGS Economics and Planning Pty Ltd, 2021. *Australia's Economic Wellbeing*. [online] p.5. Available at: <[https://www.sgsep.com.au/assets/main/Publications/SGS-Economics-and-Planning\\_Australias-Economic-Wellbeing-2021.pdf](https://www.sgsep.com.au/assets/main/Publications/SGS-Economics-and-Planning_Australias-Economic-Wellbeing-2021.pdf)> [Accessed 21 February 2022].

<sup>17</sup> <https://www.abs.gov.au/statistics/economy/business-indicators/monthly-business-turnover-indicator/latest-release#data-download>

<sup>18</sup> SGS Economics & Planning. 2022. *National economic growth hides the differing experiences across Australia's cities and regions, new report reveals* | *SGS Economics & Planning*. 7 December 2021 [online] Available at: <<https://www.sgsep.com.au/publications/insights/australias-economic-wellbeing-2>> [Accessed 21 February 2022].

<sup>19</sup> Ibid.

<sup>20</sup> SGS Economics and Planning Pty Ltd, 2021. *Australia's Economic Wellbeing*. [online] p.6. Available at: <[https://www.sgsep.com.au/assets/main/Publications/SGS-Economics-and-Planning\\_Australias-Economic-Wellbeing-2021.pdf](https://www.sgsep.com.au/assets/main/Publications/SGS-Economics-and-Planning_Australias-Economic-Wellbeing-2021.pdf)> [Accessed 21 February 2022].

<sup>21</sup> ACT Government, Budget 2021-2022, Budget Outlook, Canberra, October 2021, p.17. <<https://www.treasury.act.gov.au/budget/budget-2021-22/budget-papers>>.

ACT regulatory agencies played a key role during the lockdown period of informing and regulating businesses compliance with the public health directions. Different states and territories took varying approaches in how they communicated to businesses the changing public health directions. Some relied extensively on online channels and strict enforcement, whereas ACT Government used a broader range of methods such as site visits as part of their engage, educate and enforce method. While recognising that the public health restrictions limited business activity, they appear to have been implemented and regulated in a way that prioritised supporting businesses to comply.

The outdoor activation taskforce was also an interesting case example of how ACT regulatory agencies took a lead role during the period of restrictions to 'find solutions' to support businesses. Given the public health restriction limits on indoor dining capacity, the taskforce assisted 51 businesses to temporarily activate outdoor dining spaces on available public land, including use of public space that may not have been previously authorised.

### **Pathway forward towards COVID normal life 2022 onwards**

The continually evolving landscape of COVID-19 and the impact of the Omicron variant requires adaptive government responses and fit-for-purpose regulation. The 'new normal' of living with COVID-19 and evolution of variants in 2022 and beyond will bring new challenges for ACT business, as well as fundamentally change the ways in which economic growth and business participation takes place in the Territory. The pandemic has changed consumer behaviours and the ways that business trade, operate, and communicate as well as demonstrated the remarkable resilience of businesses in transforming operations within short periods of time.

# APPENDIX B – METHODOLOGY

The Taskforce has used the Discovery Phase to seek answers to its core questions by undertaking:

- engagement with business and stakeholders;
- a wide-ranging Legislative Review; and
- jurisdictional analysis.

The Taskforce also progressed the Commonwealth's deregulation reform agenda.

## Engagement

- During the Discovery Phase, the Taskforce sought to identify issues emerging from regulation that place burdens on business and identify the most effective levers to use to address these.
- Informed by HCD principles, the Taskforce sought to engage with a wide range of business to better understand the issues they face, and the possible solutions required.
- By employing a HCD approach to consultation, the Taskforce sought to capture what is working well, locate the key pain points for different stakeholder groups, and gain an understanding of where regulatory reforms could deliver the most value.

## Engagement Principles

The Taskforce employed key engagement principles throughout its engagement. These were to:

- engage with stakeholders in ways that suit them – by acknowledging that business owners and representatives are very busy;
- keep stakeholders informed – by understanding engagement as a two-way process; and
- engage respectfully – by acknowledging the valuable time and insight of stakeholders.

## Engagement Activities

The Taskforce undertook a broad program of consultation and engagement across Canberra. This included focus groups, workshops, roundtables, and one-on-ones. The Taskforce engaged with business, precinct groups, peak bodies, industry forums and government regulators to hear about issues that businesses are experiencing.

### Factsheet

A factsheet was published in March 2021 on the ACT Government website introducing the Taskforce, its role, and its immediate focus of improving regulation.

The factsheet and associated web content encouraged business to *have their say* through an open call for business to share their experiences, known barriers, and ideas for improvement with the Taskforce. A series of questions were posed to help start this conversation:

- What is the biggest issue facing your business right now?
- How has ACT regulation supported or strained your business during the COVID-19 pandemic?
- What are your interactions with the ACT Government like?
- What do we do well?
- What could we improve upon?
- Is the information and support you need to run your business in the ACT easily accessible?
- What other information would make it easier to run your business? Where would be the best place for you to access this?
- Are there government requirements on your business that are onerous, take too long or are confusing?

- How could we enhance our reputation as being the best place to do business?
- What processes, rules or regulations present barriers or hurdles to you doing business in the ACT?
- Have you experienced any duplication between Commonwealth and ACT processes?
- How could this be improved to be more aligned?
- Are there any government forms or processes that could be digitised and moved online?

The Taskforce's email and a contact number were provided so that business could reach out to the Taskforce directly.

## Workshops

The Taskforce held in person workshops to obtain a high-level understanding of key regulatory issues in the ACT. These workshops were focused on capturing the breadth of issues that represent unnecessary regulatory burden and make it hard for businesses to interact with government.

The Taskforce targeted its workshop engagement activities on sectors that have been hardest hit by the COVID-19 pandemic, such as the entertainment/night-time economy, and sectors with the greatest potential for growth and jobs creation in the future, focusing on innovation and entrepreneurship.

The workshops conducted throughout 2021 were:

- ACT Government Stakeholders – 29 March 2021
- Night-time economy and entertainment sector – 30 April 2021
- Innovation sector – 23 June 2021
- ACT Procurement – 28 July 2021

These workshops were targeted at sophisticated small businesses, large businesses, peak bodies/industry associations, and government stakeholders. The workshops explored issues that currently impede efficient business practice or create subpar regulatory experience and how they might be addressed. The Taskforce developed interactive agendas for these workshops to address topics of interest. Workshops were run by an expert facilitator and insights were captured around the key themes to emerge through the workshop.

### ACT Government Stakeholders – 29 March 2021

This internal workshop introduced the Taskforce to key business areas across ACT Government. The workshop helped provide focus to the Taskforce's program of work, informed stakeholder mapping, and provided the regulator's perspective on optimising regulator efficiency and effectiveness.

### Night-time economy and entertainment sector – 30 April 2021

As demonstrated by the economic indicators, the ACT night-time economy and entertainment sectors were particularly hard hit throughout COVID-19 and continued to manage public health restrictions in 2021, while most of Canberra had returned to low or zero restrictions. Attendees comprised representatives of business peak bodies, as well as business owners and managers from the relevant sectors.

### Innovation sector – 23 June 2021

This workshop focused on the regulatory barriers facing the innovation sector, defined as encompassing start-ups, green economy businesses, tech and cyber security businesses and higher education institutions. The workshop was developed and delivered in partnership with the Canberra Innovation Network.

### ACT Procurement – 28 July 2021

The Taskforce, with the support of Procurement ACT, held a workshop focused on government procurement. The Taskforce had heard from members of the Canberra Business Chamber, Canberra Women in Business and Canberra Innovation Network that procurement was an area the Taskforce should focus on. This workshop aimed to provide information for attendees on the current ACT Government

procurement framework and help the Taskforce better understand the challenges and opportunities in relation to ACT Government procurement and what it should focus on addressing.

In addition to this workshop, a survey was released in December 2021 by Procurement ACT to review its procurement systems, processes and engagement with industry as well as seek feedback from users on their experiences in tendering for opportunities with the ACT Government. The survey results will serve to identify future opportunities for improvement and inform future requirements for whole of government procurement systems.

### Attending existing forums

Taskforce representatives attended existing business forums, recognising the valuable time of business by ensuring their experiences were listened to in their working environment. These included the Canberra Region Tourism Leaders Forum, and member roundtables held by the Canberra Business Chamber.

### One-on-Ones

The Taskforce conducted extensive one-on-ones with a wide variety of ACT businesses and peak bodies/industry associations at times and in locations that suited industry best.

## Legislative Review

The Taskforce commissioned a scoping study of opportunities for Legislative Review to help remove regulatory burden on industry and business in the ACT. The wide-ranging Legislative Review prioritised the need to:

- reduce the requirement for businesses to contact multiple government agencies; and
- ensure legislation across the ACT supports new business models to grow the digital economy.

The review also allowed for the identification of opportunities to reform legislation to ensure regulatory settings remain fit for purpose and consistent with best practice principles.

Potential review projects were identified throughout the following processes:

- scan of the entire ACT primary legislation database;
- jurisdictional review of recent regulatory developments in the Commonwealth, the States and New Zealand; and
- review of the outcomes of stakeholder consultations conducted by the Taskforce.

## Jurisdictional Analysis

An extensive jurisdictional analysis was undertaken to identify previous and current reform programs and statements of best practice principles across the country and internationally. The Taskforce reviewed trends and regulatory policy to determine a criterion by which existing regulation could be considered, as well as a framework against which new regulation could be assessed.

## Alignment with, and delivery of, the Commonwealth's Deregulation Agenda

The Taskforce, while progressing its work program, has also been facilitating the ACT's contribution to nation-wide regulatory reforms, principally through the Council on Federal Financial Relations, through to National Cabinet.

The Taskforce represents the ACT Government across several Commonwealth working groups for a variety of regulatory reform projects. These projects include:

- Modernising Business Communications - Modernising Document Execution (MDE);
- Improving Occupational Mobility - Automatic Mutual Recognition (AMR); and
- Overlapping Regulation.

# APPENDIX C – BUSINESS ENGAGEMENTS

During the Discovery Phase, the Taskforce collaborated directly with businesses to provide the opportunity to contribute ideas and solutions that would best support their success. These ideas build on the already embedded 'How can we help' approach of government agencies and regulators, with the view of improving the experience for everyone. Across our engagements with business, some key themes emerged. These included:

- small business information and communications;
- simplification of government to business interactions;
- regulator practice (clarity, capability, culture, and continuous improvement);
- programs and support for SMEs;
- skilled workforce; and
- continuous improvement – reviewing legislation and regulations.

Feedback from business may fit into more than one of these themes.

## Small business information and communications

Small business operators are diverse, requiring varied communication needs and engagement preferences. Through our engagements we have heard:

### Business needs and preferences

- Business has limited time and resources to seek out relevant government information.
- Business needs information to be clear, targeted and promoted for their awareness.
- Most prefer business specific communication channels over general channels, and there is a strong preference for digital information over hard copy materials.
- Business has different information needs depending on what stage of the business lifecycle they are in. There is a need for information and advice at key growth stages as businesses grow and take on new responsibilities such as hiring staff or embracing more sophisticated management approaches.

### Online information – accessibility

- With an increased focus on providing information online there is a need to ensure that information on websites is clear, easy to read and use, and regularly updated for currency (including links).
- Website information needs to be accessible across a range of digital devices, including mobile phones and other personal digital devices.

### Personal contact points

- Communiques and information sent from the ACT Government should provide business with an opportunity to talk to a government officer. A lot of information is routed through websites, and there is often a lack of a phone number or other way in which an affected business can talk to an officer.
- After accessing information online, business operators and start up entrepreneurs often need to talk to someone in government personally. Some have ideas or questions not resolvable online; others find existing text confusing or contradictory and need clarification.
- Government should give business operators an opportunity for phone calls, to help answer questions, give the personal touch and get feedback or identify problems from business.

## Communiqués about regulatory changes

- Any proposed changes which are likely to impact on business costs, trading hours or employment practices should be advertised and promoted in advance of any such changes being implemented. There needs to be sufficient time to communicate with business owners and for the necessary changes to be made to operations.
- Any information or consultation about regulatory changes which may impact small business need to include small business advisors (e.g. accountants, legal advisors) and peak bodies as key audience groups as they play an active role in filtering and nuancing information for their small business clients.

## Providing targeted information, advice, and support to business

Business suggested various methods (physical and virtual) to provide targeted information and advice to support them in starting, running, and growing a business in the ACT. These included:

- A business centre which provides assistance from a credible source (i.e. being able to speak to someone who has run a business and understands the realities of running a business).
- An easy to access business hub to better connect business with government, including getting information on available business support, i.e. rebates and grants with industry specific support.
- A business concierge service which provides a dedicated agent who can answer questions about what services and supports are available to business, and how to access them.

## Simplification of Government to Business interactions

Businesses were asked to share their experience of interactions with government and the ease of doing business in the ACT. Improvements were suggested for some processes and approvals associated with running a business or holding a major event in the ACT. Ideas were also suggested for potential innovation and simplification for business and government interactions. We heard that:

### Processes and approvals

- Approval processes can be difficult, drawn out and there can be minimal or no update on the process after lodgement of the application. Some examples include the:
  - processing times of working with vulnerable people checks;
  - processing times and consultation requirements for development approvals;
  - difficulties that 'pop up' business experiences in navigating processes and obtaining necessary approvals;
  - ease of seeking events approvals, especially for repeated annual events where applicants must undergo the same processes afresh; and
  - duplicative processes within and between the ACT Government and the Commonwealth (for example seeking approvals from the National Capital Authority).
- Processes and approvals could be supported by:
  - improving processing times and communications on the progress of applications;
  - applying a 'yes' first regulatory culture and explaining 'how' stakeholders can do or achieve an outcome;
  - applying a 'tell us once' principle where the same information must be provided to different ACT Government agencies, or when the same event is repeated over time (e.g. yearly); and
  - Support collaboration and feedback between those working on the ground and government agencies (or a similar description) to devise mutual improvements to processes.

## Streamlines business reporting – Tell Us Once Principle

- Business feel it is inefficient when they are required to provide the same information to different entities.
- A ‘tell us once’ principle could be adopted so that business must only submit similar information to ACT regulators once (for example updating information about board members).
- This principle could also be adopted for other information requirements relating to licensing (for example (fit and proper person test).

## Business licences and renewals

- Many business licences are offered on an annual basis, although renewal is routine and non-controversial.
- Renewing licenses is a task that takes up time and managerial effort.
- Business would like greater flexibility by being given the option for multi-year regimes, as well as annual renewals.

## Regulator Practice (clarity, capability, culture & continuous improvement)

Engagement with business has shown where some regulator practices can be improved to enhance clarity, capability, culture, and employing a continuous improvement approach.

Through our engagements, we heard that:

### Understanding the needs of business and providing a personalised approach

- Business prefers to speak with people who have lived experience with running a business and who understand the intricacies and challenges.
- Business dealings with government could be improved by:
  - encouraging government to actively recruit public service candidates with a former business or business-enabling background;
  - educating regulators to understand the experience of the business community and help support productive dialogues, possibly through professional placements within industry associations;
  - using co-design processes to bring business stakeholders into earlier parts of the regulatory design stage; and
  - creating a personalised approach to regulatory compliance activities through a case manager approach, so business can develop ongoing productive relationships with regulator staff (individual or team). Facilitating contemporaneous feedback, tailored responses, the upfront triaging of issues and continuous improvement by regulators.

### Regulatory approach and compliance enforcement culture

- Regulatory policy needs to recognise the needs of business, be cognisant of the impact of regulation on small business at a community level and seek to minimise the cumulative burden of regulation.
- Business stressed the importance of regularly measuring the burden of regulation on business both actual and perceived through annual or bi-annual surveys.
- Business called for the ACT to lead the way by applying a ‘think small first approach’ to regulation, wherein laws are written first and foremost for small business, considering their ability to apply. If greater or high standard of compliance are expected by larger firms, then this should be an explicit addition to the law.



- Business called for the ACT to strive to have identical or similar laws to those in NSW, unless there is good reason not to do so. Reducing the cost of different regulation for two adjacent jurisdictions.
- Business also suggested the ACT compare and contrast its performance to that of nearby regional NSW. The ACT should at least match, or better, the operating environment for business in NSW.

## Supporting straightforward business compliance and alleviating the burden of regulation

- Straightforward business compliance could be supported by:
  - developing a streamlined online portal that allows business to quickly understand which regulations apply to them, and which provides educational material on how they can fulfil their requirement;
  - making regulatory compliance straightforward by ensuring clarity around legislation;
  - reducing the subjectivity in regulation and its application;
  - ensuring legislation, policy, procedures and factsheets are written in plain English;
  - providing improved factsheets and checklists to support business understanding and compliance, as well as preparedness for inspections;
  - refining Access Canberra's role through improving upfront triaging of issues and adopting a case manager approach to regulation and compliance;
  - providing simple, accessible training to support compliance;
  - clarify the ACT's regulators and Ministerial portfolio responsibilities and 'who does what', so business knows who to speak to about specific issues; and/or
  - ensuring that regulators take the time to understand the perspective of regulated entities (i.e. 'walking in the shoes' of business).
- Where there are multiple regulatory agencies, government and regulators need to alleviate the burden on business through:
  - ensuring that the regulation is justified through cost-benefit analysis;
  - ensuring appropriate co-operation and coordination (for example coordinating inspections and where possible, holding them at off-peak times);
  - easy and swift interactions with government agencies; and
  - investing in, and using, digital technology (RegTech) to ease interactions with government agencies.

## Programs and Support for SMEs

Small to medium enterprises (SMEs) expressed the ongoing need for programs and support, throughout COVID-19 and beyond.

Business was encouraged by some of the COVID-19 business support initiatives, including the Choose CBR program and the waiving or reduction of hire car registration costs during the peak of the COVID-19 pandemic.

Outside of COVID-19 specific supports, business indicated the need for general business support for those in the growth stage of the business lifecycle. Business noted that there are many existing grants for start-ups and big business, but not for those in the middle, which makes it difficult for those trying to scale up their operations to access tailored information and support.

Business, particularly SMEs, also expressed a strong desire for support in understanding government procurement requirements, and in bidding for government procurement opportunities.

### ACT Government Procurement

Business identified some current barriers to undertaking procurement. We heard that:

## **Understanding and awareness and SME engagement**

- The ACT Government procurement system can be confusing. There is an apparent lack of SME understanding of the various procurement opportunities available across different sectors. This includes a lack of understanding about SME eligibility to bid for ACT Government contracts and how to apply to get onto ACT Government panels.
- ACT Government employees undertaking procurement often don't understand the realities of running a business and what they are asking of business through procurement processes. This includes the costs associated with bidding for ACT Government contracts.

## **Aboriginal and Torres Strait Islander and women owned business**

- Women owned and led business and Aboriginal and Torres Strait Islander owned and led business both identified that more could be done to increase their participation and share of ACT Government contracts, including by challenging perceived bias.

## **Procurement framework – procurement policies and practice**

- The existing procurement thresholds are outdated and should be reviewed.
- There could be greater clarity about how to make an unsolicited bid and how it will be dealt with.
- Panels, depending on the frequency in which it is refreshed, can as a barrier for SME participation.

## **Tender documentation and contracts**

- Stakeholders identified liability and insurance provisions in ACT Government contracts as a potential barrier for SMEs. They suggested that the contract liability and insurance provisions be reviewed and reformed, including those clauses relating to uncapped liability, consequential loss and proportionate liability.
- There is a perception that there is little to no tolerance for failure in ACT Government procurement. Mitigating risk leads to the removal of risk entirely making it harder for new, unproven business to be successful.
- There is a need to continue to move away from output reporting and towards outcomes-focused procurement and contracting.
- In respect of the not-for-profit sector, it was noted that there is a need to rationalise the accumulative burden of contractual reporting requirements and grant funding reporting requirements.

## **Comfortable communications**

- While acknowledging procurement and probity requirements, government officials can often be risk adverse in their communications with prospective respondents/tenderers. Communications can be quite bureaucratic.
- Where questions are asked, business would like a response from a government officer.

## **Linking procurement policies and practice to broader ACT Government objectives**

- While acknowledging the importance of the government procurement values and social procurement in the broad, business noted the time it takes to respond to these criteria in procurement documentation does not often align with the weighting assigned to it.
- There could be greater clarity given about Territory objectives for small business, and how business can reach those objectives. If there are quotas, share them with industry. For example, stakeholders suggested using quotas for female representation through procurement processes and contracting as this is more likely to achieve intended outcomes (i.e increase female representation in certain industries). While others noted that this would also need to be supported through education and training measures.

## Greater certainty through forecasting

- Early market engagement and improved forecasting would provide greater clarity to industry. This includes upcoming projects and budgets.
- There is a need to provide greater certainty of infrastructure spend beyond two years.

## Debriefing

- There is little or no feedback provided for failed bids making it harder for business to learn and improve. Where feedback is provided, it often provides little utility to help business better progress their bids in the future. Noting that there are inconsistencies between directorates in their approach to debriefing respondents/tenderers.

## Identified opportunities

Stakeholders identified some opportunities to support having a best practice procurement framework and participation of SMEs in supplying to the ACT government. These included:

### *Championing local business*

Provide clear pathways to follow which make it easy for a business to check their eligibility and bid for ACT Government contracts. Build engagement with, and the confidence of, local SMEs to bid for ACT Government contracts.

### *Best Practice Procurement Framework*

Maintain a best practice procurement framework by undertaking regular reviews for currency. Review procurement thresholds, communicate the importance of government procurement directions and/or policy objectives to industry and appropriately weight them, and provide greater certainty to industry through forecasting.

### *Best practice tender documentation and contracts*

Review ACT Government contract liability and insurance provisions and consider incentive-based contracts.

### *Have a 'go to' place for connection*

A central place where SMEs can go to access public facing procurement information and supports. This could include toolkits and guidelines (in plain English), 'how to' videos, tables which summarise all existing panels and their refresh dates, and an SME supplier list (pre-vetted against the procurement values).

### *Feedback mechanisms for continual improvement*

Provide respondents/ tenderers a debrief consistent with ACT Government debriefing guidelines.

### *Increased ACT Government knowledge and capability*

Ensure consistency in the approach to procurement across Territory entities. Increase the level of knowledge of the procurement framework and capability to undertake procurement across Territory entities. Ensure the people running procurement confidently communicate and answer respondent/tenderer questions, whilst also complying with probity requirements.

## Skilled Workforce

Having skilled staff was a common issue raised by business, particularly in the context of COVID-19. We heard that:

- Business cannot access the staff they need to run and grow their business.
- Skilled workforce shortages have been experienced across a variety of industries, causing business complexities including pressure on staff wages.

- Business wants to ensure that there are reciprocal recognition of licences, to support occupational mobility from interstate. This includes a broad program of Mutual Recognition being undertaken at a national level and specific supports to understand and facilitate transfers of certificates or jurisdictional specific further training.
- Commonwealth and ACT Government measures should work together to support the attraction of workers to the ACT and the hiring/upskilling of staff, including (but not limited to):
  - affordable housing;
  - city renewal and activation;
  - incentives for business to take on apprentices; and
  - visas conditions, for example ordinarily international students are permitted to work 20 hours a week (40 hours a fortnight) while courses are in session, and unlimited hours when their course is out of session.

## Continuous Improvement – Reviewing ACT Legislation and Regulations

Engagement with business has identified potential focus areas for review and reform to ensure fit-for-purpose and best practice regulation. This includes effort to both manage the existing ‘stock’ of regulation as well as the ‘flow’ of new regulation. These have varying levels of complexity.

Business raised the need for continuous review and improvement to:

- address regulatory issues faced by the night-time economy and entertainment sectors, with particular focus on noise, outdoor dining and liquor licensing;
- implement a best practice procurement framework for SMEs through reviewing the *Government Procurement Act 2001* and regulation;
- enhance labour mobility through the implementation of a uniform scheme for automatic mutual recognition of occupational licences;
- update:
  - employment agent licensing requirements;
  - model rules for incorporated associations;
  - references to outmoded payment methods in legislation; and
  - training requirements for the Responsible Service of Alcohol framework.

Business raised other focus areas which require further analysis including:

- consideration of a potential licensing framework for individuals such as motor vehicle repairers; and
- support for diversification out of gaming through changes to ‘lease purpose clauses’ definitions (for example changing the definition of ‘club’ in the territory plan to allow additional uses).

Business suggested that in reviewing and updating legislation and regulations that regard should be given to a regulatory approach which:

- thinks ‘small first’;
- achieves cross-border alignment, where possible, to reduce burden on those business operating across jurisdictions (regional NSW and ACT); and
- reduces overlapping regulation and streamlining compliance reporting (applying a ‘tell us once’ principle).

# APPENDIX D – LEGISLATIVE REVIEW

Throughout the Discovery Phase, the Taskforce commissioned a Legislative Review to support the objectives of the Taskforce to identify the purely regulatory landscape impacts on business in the ACT. The wide-ranging legislative review identified opportunities for regulatory review and reform to reduce regulatory burden on business.

The focuses of the Legislative Review were to review key legislation to:

- 1) reduce the need for business to contact multiple government agencies;
- 2) ensure legislation across the ACT supports new business models to grow the digital economy; and
- 3) identify opportunities to reform legislation to ensure regulatory settings remain fit for purpose and consistent with best practice principles.

## Research undertaken

The potential review projects were identified through the following processes:

- scan of the entire ACT primary legislation database;
- review of recent regulatory developments in Australia, across the Commonwealth and States, and New Zealand; and
- review of the outcomes of stakeholder consultations conducted by the Taskforce.

## Potential Identified Projects

The Legislative Review identified six potential projects for review.

### Project 1 – Regulation of the ‘entertainment economy’

Review the full legislative and regulatory arrangements for the entertainment economy, which extends across the industry sectors of accommodation and food services and arts and recreation services.

This project was identified through consultation which raised numerous and ongoing barriers faced by the sectors of Accommodation and Food Services, and Arts and Recreation Services, particularly throughout the COVID-19 pandemic.

There are many small businesses in the ACT seeking to operate in these sectors who have expressed concerns regarding the lack of a coordinated approach to approvals and regulations around operating their business. The hospitality and entertainment sectors have great potential to make a significant contribution to the ACT economy, the jobs market and the way of life of Canberrans generally. This review would consider the scope for a fundamental re-organisation of regulatory arrangements affecting the ‘entertainment economy’. The review could examine legislation and regulatory practice in areas including land use, food and beverage regulation, and noise control. It may consider appropriate alternatives to arrangements currently requiring prior approval.

### Project 2 – Standardise procurement processes across ACT Government

Standardise procurement processes across ACT Government and consider scope to implement preferential treatment for local content.

Consultations with business have identified barriers for business throughout ACT Government procurement practices.

A review would examine the scope for legislation to provide for the following specific measures:

- appropriate risk assessment and management practices and standards (including insurance requirements for contractors);
- obligations to provide information/feedback concerning tenders; and
- preference for local content in procurement decisions (noting the ability to impose local preference policies might be found to be limited under law or by various intergovernmental agreements or other policy arrangements to which the ACT is a party.).

### **Project 3 –Technology specific legislation**

Review of legislation to remove any obligations requiring use of a particular technology, including paper-based documents.

This project focuses on a broad review to ensure updates to legislative vernacular to remove outdated technologies.

Although reforms of this kind have been undertaken in the ACT over recent years, there appears to be benefits from a further review of legislation, statutory instruments, and administrative practice in this area. The objective is to enable full use of modern digital technology appropriate to the circumstances. Reviews of these kinds are currently underway in other jurisdictions, including the Commonwealth.

Removal of requirements to provide information in a particular manner will minimise costs to business. Scrutiny of such legislation or other regulatory practices also provides an opportunity to identify and remove requirements that are unnecessary or overly prescriptive. This project would review legislation and regulatory practices which require, or presume, communications by means of a particular technology, such as a paper-based notice or a meeting requiring personal attendance. This includes arrangements currently suspended because of the COVID-19 pandemic.

### **Project 4 –Scope for cross-border alignment**

Review of ACT and NSW business regulation legislation to maximise cross-border alignment with NSW, with a focus on legislation having significant impact on small business.

This project is relevant for the ACT as a small jurisdiction surrounded by regional NSW. A large number of businesses, including many small businesses, operate both within the ACT and surrounding areas of NSW. Compliance costs due to a lack of regulatory alignment impact disproportionately on small business. A review of regulation and analysing opportunities for regulatory alignment with NSW would make it easier to do business across NSW and the ACT.

A full review of the alignment of ACT legislation with that of NSW would require detailed examination of legislation and regulatory practice across both jurisdictions. This would require consideration of a wide range of policy questions where divergences are identified.

### **Project 5 – Regulatory overlap**

Review of regulator/regulation overlap and duplication to reduce touchpoints, with a focus on legislation having significant impact on small business.

Businesses, both in the ACT and across Australia, have expressed concern about regulatory overlap and duplication that has significant financial and time cost impacts. Often this experience can involve the need to deal with different regulations and different regulators for the same, or a similar activity. Stakeholders seek simplified business to government interactions and a 'tell us once' approach.

A review would identify areas of overlap or duplication which could be streamlined to make processes simpler and more transparent. This project aligns with Commonwealth objectives to streamline processes and eliminate duplication.

This review would involve further consultation with business to identify any other areas where regulatory overlap may exist and where its removal would have practical benefits for business.

### **Project 6 – Regulator Performance**

Introducing legislation to improve regulator performance.

Ensuring continuing improvement and standards for regulator best practice and performance will benefit business. This could be achieved through changes to legislation to support better regulatory settings and practices. The Productivity Commission has noted studies showing that up to 50 per cent of unnecessary costs for business are due to how regulators implement regulations.

Stakeholders frequently request guidance for regulatory compliance to be provided in a more accessible form. Stakeholders have frequently requested clearer guidance for regulatory compliance such as improved checklists and information, provided in a more accessible form such as a streamlined online portal.

The concept of 'stewardship' has been promoted in several jurisdictions. The objective is to impose duties on regulators to assess effectiveness and appropriateness of legislation and regulatory practice on a regular basis.

The Productivity Commission has noted that better outcomes for small businesses and the community are achieved when regulators have a range of tools that enable them to tailor their responses to breaches (or potential breaches) of regulation in a proportionate way, rather than having to rely solely on initiating legal proceedings.

# APPENDIX E – JURISDICTIONAL SCAN

The following desktop scan includes an exploration of how elements of a regulatory quality framework manifest in other jurisdictions.

## A Government Commitment

The Organisation of Economic Co-operation and Development (OECD) emphasises the need for government to commit to a policy for regulatory quality.

The 2012 *Recommendation of the Council on Regulatory Policy and Governance* called on all members to:

“Commit at the highest political level to an explicit whole-of-government policy for regulatory quality. The policy should have clear objectives and frameworks for implementation to ensure that, if regulation is used, the economic, social and environmental benefits justify the costs, the distributional effects are considered, and the net benefits are maximised”.<sup>22</sup>

In unpacking this recommendation, the OECD calls for governments to develop and maintain a strategic capacity to ensure regulatory policy remains relevant and effective. A part of this capacity should be a regulatory management system which employs both *ex ante* impact assessment (that is, prior to implementing regulation) and *ex post* evaluation to assess performance and outcomes. Consultation on the design, development and revision of regulations underpins the management system.

At the heart of the OECD’s recommendation is the need for a government-endorsed framework which puts in place measures to ensure that regulation is proportionate, effective, and clear. Commonly, this commitment is given expression through a set of principles developed by governments to guide best practice in regulation-making.

Examples of these principles from the Commonwealth and New South Wales (NSW) are discussed below. In all cases, the principles include the OECD’s requirements for an *ex ante* assessment, an *ex post* evaluation and stakeholder involvement.

## Aspiration – Best Practice Principles

The 2007 Council of Australian Government (COAG) agreed principles for best practice regulation contain several elements that are fundamental to ensuring regulation is proportionate, effective, and clear. Many Australian jurisdictions either explicitly align their own regulatory policy with the COAG principles,<sup>23</sup> or have developed their own aspirational statements of best practice to guide stock and flow management as well as regulatory performance.

### Box 2 – COAG-agreed Principles of Best Practice Regulation

**Principle 1:** Establishing a case for action before addressing a problem.

**Principle 2:** A range of feasible policy options must be considered, including self-regulatory, co-regulatory and non-regulatory approaches, and their benefits and costs assessed.

**Principle 3:** Adopting the option that generates the greatest net benefit for the community.

<sup>22</sup> OECD Regulatory Policy Committee, 2012. *Recommendation of the Council on Regulatory Policy and Governance*. Organisation for Economic Co-operation and Development, p.4.

<sup>23</sup> See, for example, the Queensland Government *Guide to Better Regulation* [online] Available at: <<https://s3.treasury.qld.gov.au/files/Queensland-Government-Guide-to-Better-Regulation-May-2019.pdf>>



**Principle 4:** In accordance with the Competition Principles Agreement, legislation should not restrict competition unless it can be demonstrated that:

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

**Principle 5:** Providing effective guidance to relevant regulators and regulated entities in order to ensure that the policy intent and expected compliance requirements of the regulation are clear.

**Principle 6:** Ensuring that regulation remains relevant and effective over time.

**Principle 7:** Consulting effectively with affected key stakeholders at all stages of the regulatory cycle.

**Principle 8:** Government action should be effective and proportional to the issue being addressed.

Independent reviews of good regulation in NSW have recommended that regulation cannot be a 'set and forget' exercise and requires regular and frequent engagement and iterative improvement. In 2019, NSW Treasury released the *NSW Government Guide to Better Regulation*,<sup>24</sup> building on the NSW Better Regulation Principles and policy-making requirements that have been in place since 2008.

All new and amending regulatory proposals in NSW are required to demonstrate application of the Better Regulation Principles and the 2019 guide provides a resource for policy makers to consider and demonstrate how the principles are reflected in proposals.

### Box 3 – NSW Better Regulation Principles

**Principle 1:** The need for government action should be established. Government action should only occur where it is in the public interest, that is, where the benefits outweigh the costs.

**Principle 2:** The objective of government action should be clear.

**Principle 3:** The impact of government action should be properly understood, by considering the costs and benefits (using all available data) of a range of options, including non-regulatory options.

**Principle 4:** Government action should be effective and proportional.

**Principle 5:** Consultation with business, and the community, should inform regulatory development.

**Principle 6:** The simplification, repeal, reform, modernisation or consolidation of existing regulation should be considered.

**Principle 7:** Regulation should be periodically reviewed, and if necessary reformed, to ensure its continued efficiency and effectiveness.

## Components and tools

Regulation is likely to be 'better' when there are processes and institutions in place to:

- manage the existing stock of regulation;
- manage the flow of new regulation; and
- continuously improve regulator culture and capability.

The regulatory system should ensure that these components are performed in a coordinated and cost-effective way. Linking back to the OECD recommendation, government commitment to the management of each component is essential.

<sup>24</sup> NSW Government Treasury, 2019. *NSW Government Guide to Better Regulation*. Sydney.

Jurisdictions deploy a variety of tools and approaches to address the components and some of these approaches are described here.

Not all jurisdictions have been included in this brief survey, and it is not intended to draw conclusions about the merits of different approaches. The information has been collated as an information source on what a better regulation framework *can* look like, not what they *must* look like.

## Commonwealth

The Australian Government continues to play a leading role in describing best practice for regulation-making and regulatory practice in Australia. The Commonwealth brings together the components of a regulatory quality framework through its newly created Deregulation Agenda. The Agenda ‘will focus on reducing barriers affecting Australia’s productivity growth and competitiveness. It will also make sure regulations are well-designed, fit-for-purpose and support businesses to grow and create jobs’.<sup>25</sup>

The Deregulation Agenda includes:

- key reforms that have been identified to manage the existing stock of regulation:
  - enhancing occupational mobility;
  - modernising business communications;
  - streamlining excise administration; and
  - streamlining overlapping regulation.
- management of the flow of new regulation through the Office of Best Practice Regulation (OBPR):
  - The Office works with departments and agencies to produce detailed, evidence-based assessments of complex policy issues.
  - According to OBPR, best practice regulation is achieved through the rigorous application of a Regulatory Impact Assessment framework. By applying this approach, the Commonwealth is looking to ensure that all policy decisions are evidence based and that “regulation is never adopted as the default solution, but rather introduced as a means of last resort.”
  - A Regulation Impact Statement (RIS) is required where the impacts of a proposal are more than minor. Where Cabinet is the decision maker, a RIS is always required.
- the creation of a regulator performance function to increase accountability, promote best practice, build the professionalism of regulators and support cultural change. Best practice principles have been developed to underpin the Australian Government’s expectation of regulator performance. Key features include:
  - adoption of a ‘stewardship’ approach. Stewardship assists governments to manage the stock of existing regulation by placing responsibility on Ministers, Secretaries and Agency Heads to ensure that regulation and regulatory approaches remain fit for purpose. Stewardship assists governments to identify proposal for regulatory reform.
  - Ministerial statements of expectation and regulator statements of intent to establish the policies and priorities for the regulator.

An additional tool to manage the stock of regulation is the Commonwealth sunseting framework. Many legislative instruments<sup>26</sup> are automatically repealed after 10 years—this process is known as sunseting and is governed by the Commonwealth’s *Legislation Act 2003*. The Productivity Commission notes that “the logic supporting sunseting is that much regulation inevitably has a ‘use-by date’ when it is no longer

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<sup>25</sup> Deregulation, Prime Minister & Cabinet.2022. <https://deregulation.pmc.gov.au/>. [online] Available at: <<https://deregulation.pmc.gov.au/>> [Accessed 10 March 2022].

<sup>26</sup> The Sunseting framework was reviewed in 2017 and it was recommended that the sunseting framework not be extended to Acts.

needed or will require significant modification. But without a trigger to reassess its utility, at least some of this regulation will inevitably remain in place.”<sup>27</sup>

## New Zealand

New Zealand is recognised for its comprehensive and an innovative approach to regulatory quality.

### ***Better for Business (B4B)***

The centrepiece of its framework is the B4B program that is part of the Minister Business, Innovation and Employment. B4B is a comprehensive institutional response from government that reaches across managing the stock and flow of stock of regulation as well as regulator capacity and capability.

B4B is describes itself as the ‘voice of Kiwi business.’ Insights into the experiences of businesses have dealing with government are gleaned through in-depth research and analysis. B4B then works with government agencies by sharing and highlighting these insights with policy and operational teams within the agencies. The outcome is the reduction of the cumulative impact of compliance on small businesses.

The various government initiatives are mapped across a spectrum from ‘avoiding burdens for small business’ (top of the cliff) through to ‘remediating burdens’ (bottom of the cliff).

### ***Top of the cliff***

Top of the cliff initiatives include a regulatory impact assessment process aimed at achieving ‘better new regulation’. The focus of this initiative is to ensure that it adopts a small business lens to policy. Another measure at this end of the spectrum is the ‘Better Rules Better Outcomes’ which is aimed at simplifying existing regulation. This is a human-centred design process for legislation and regulation. The Better Rules methodology aims to assist people and businesses to understand, benefit from and comply with legislation in an automated way. The Better Rules approach allows for legislation to be developed in software code as well as written language from the start. It avoids the need for later translation of legislation into software language, avoiding the risk of incorrect interpretation. The Better Rules methodology will be particularly helpful for activities like calculating eligibility criteria for a benefit, and financial reporting obligations. It is the human-centred design (HCD) approach which is embedded in a rules as code approach which is valuable and capable of delivering significant benefits to business.

### ***Bottom of the cliff***

Initiatives to remediate burdens (bottom of the cliff) include the ‘Better comms and support’ responses such as New Zealand’s Business website<sup>28</sup> which provides a central point for all business programs, information and support including ‘How to Start a Business’.

### ***Regulatory Technology***

New Zealand has invested in a comprehensive regulatory technology (RegTech) solution which assists in alleviating and remediating regulatory burden. Business Connect<sup>29</sup> is a digital service platform which enables businesses to:

- access and manage their business information from one place;
- use the data government already holds about them – their New Zealand Business Number (NZBN) - which will pre-populate the information they’re most often asked to share;
- re-use the information they’ve previously provided to government;
- connect digitally across both local and central government; and

<sup>27</sup> Productivity Commission, 2011. *Identifying and Evaluating Regulation Reforms*. [online] Canberra, p.xviii. Available at: <<https://www.pc.gov.au/inquiries/completed/regulation-reforms/report>> [Accessed 10 March 2022].

<sup>28</sup> 2022. *Helping businesses succeed - Tools and expert advice from government and industry, designed to help Kiwi businesses save time and succeed*. [online] Available at: <<https://www.business.govt.nz/>> [Accessed 10 March 2022].

<sup>29</sup> Businessconnect.govt.nz. 2022. *Making it easier to do business with government*. [online] Available at: <<https://businessconnect.govt.nz/>> [Accessed 10 March 2022].

- more easily meet their compliance obligations.

## New South Wales

The NSW Government states that it is committed to continuous improvement of its regulatory policy framework to support and enhance opportunities for improved productivity.

Following an Independent Review of the NSW Regulatory Policy Framework in 2017, the NSW Government assigned responsibility for regulatory policy to the Treasurer and appointed a Commissioner for Productivity.<sup>30</sup>

In the context of economic recovery from COVID-19, the NSW Productivity Commission released in 2021 the *Productivity Commission White Paper*<sup>31</sup> identifying 60 opportunities to ‘reboot’ productivity growth. The white paper identifies four foundations upon which productivity growth should be built: talent; innovation; housing; and infrastructure. The scope of the reform agenda in the White Paper is broad, with recommendations that range from education and schools to energy and taxes and housing and infrastructure.

Of central interest to the ACT Taskforce is the Paper’s consideration of the costs and opportunities of regulation in a context of recovery and productivity growth. The White Paper argues that better regulation will:

- reduce unjustified restrictions on conduct;
- remove outdated, inconsistent, or unnecessary rules;
- reduce barriers to entry or price controls in network industries or occupations; and
- reduce compliance costs.

Recommendations for forward-looking regulation that supports competition and innovation include specific areas like drones, personal mobility devices and Automatic Mutual Recognition, but also whole-of-system reforms such as amending legislation to translate rules to code where appropriate and adopting a negative licensing approach for low-risk licenses and activities.

Building on the White Paper, the NSW Productivity Commission recently released a discussion paper on regulating emerging industries which further articulates clear principles to underpin regulation in areas of technological change, to achieve safety, promote innovation and support industry. These principles propose that regulation should:

- be outcomes-focused – neutral to technology and focused on underlying objectives;
- promote a culture of regulatory experimentation – supporting trials, pilots and innovation; and
- be regularly monitored and reviewed – to assist in identifying barriers in the existing stock of legislation to the adoption of emerging technologies and ensure regulation remains fit for purpose.

As previously noted, NSW manages the flow of regulation through the application of best practice principles for better regulation to new and amending policy proposals.

## Victoria

Better Regulation Victoria (BRV) works with the Victorian Government and community to support the analysis, design, and implementation of best-practice regulation. It supports departments and agencies, and works closely with Victorian regulators, to deliver continuous regulatory improvements.

<sup>30</sup> Greiner, T., McCluskey, S. and Stewart-Weeks, M., 2017. *NSW Regulatory Policy Framework - Independent Review*. [online] Sydney. Available at: <https://www.treasury.nsw.gov.au/sites/default/files/2018-02/Independent%20Review%20of%20the%20NSW%20Regulatory%20Policy%20Framework%20final%20report.pdf> [Accessed 10 March 2022].

<sup>31</sup> NSW Government, 2021. *Productivity Commission White Paper - Rebooting the Economy*. Sydney.

Working with the Commissioner for Better Regulation and the Red Tape Commissioner, BRV:

- Assesses the adequacy of regulatory impact assessments:
  - i.e., engaging with other departments and agencies undertaking impact assessments;
- Assists with the design, application, and administration of regulation
  - i.e., providing training on preparing impact assessments for public sector staff, and running workshops on impact assessments of complex issues
- Convenes the Regulators' Forum
  - i.e., a forum which brings together staff from regulators and relevant departments, whereby best practices can be shared
- Advises on and investigates complaints about competitive neutrality
  - i.e., upholding competitive neutrality between government and private enterprises providing the same service; and
- Research other regulatory issues as directed by the Treasurer or the Secretary of the Department of Treasury and Finance.

BRV also communicates with Victorian businesses and not-for-profits to identify improvements or ways to reduce unnecessary regulation, including:

- Opportunities to cut red tape, with a 25 per cent red tape reduction target (timeframe unspecified).
- Improvements to regulators' dealings with business, including the design and implementation of regulation.
- Areas of regulatory overlap.
- 'Hotspots' where regulatory reforms can 'unlock' economic activity.
- Improvements to regulation administration, such as removing unnecessary burdens.

## Queensland

The Queensland Government established a Better Regulation Taskforce<sup>32</sup> under its small business advisory council to provide periodic reports to government on opportunities for regulatory reform, with a focus on specific sectors and engagement directly with business groups. Recommendations vary across the reports, but some key themes emerge as they call for:

- consistent and risk-based approaches to rules and regulations; and
- clear, specific guidance material for regulated entities.

Like most other jurisdictions in Australia,<sup>33</sup> Queensland has a sunseting regime and has also established the Office of Best Practice Regulation which administers the Queensland Government's regulatory review requirements, and aims to ensure regulation is necessary, well-designed and fit-for-purpose.

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<sup>32</sup>Department of Employment, Small Business and Training. 2022. *Better Regulation Taskforce*. [online] Available at: <<https://desbt.qld.gov.au/small-business/advisory-groups/taskforce>> [Accessed 21 February 2022].

<sup>33</sup> Essentially, the Commonwealth, Queensland, Victoria, South Australia, and Tasmania's regulations/ subordinate legislation automatically expire (or sunsets) 10 years after coming into force. The precise date of this differs between jurisdictions. New South Wales is similar, but regulations/ subordinate legislation automatically expire after five years.

# APPENDIX F - THE COMMONWEALTH'S DEREGULATION AGENDA

The ACT's approach to better regulation must take account of the Commonwealth suite of initiatives because:

- there are several valuable and worthwhile initiatives in this suite that can contribute to better regulation in the Territory including:
  - lifting regulator performance, capability and culture; and
  - streamlining overlapping regulation.
- we can leverage learnings from our work on the Commonwealth agenda for our own 'better regulation' agenda, for example:
  - our understanding of the ACT licensing landscape through our work on AMR could be used to support further reforms in this area.
- some of these initiatives apply automatically to the ACT, including:
  - improving occupation mobility; and
  - modernising business communication.

As a result, the Commonwealth's Deregulation Agenda will continue to shape the ACT Government's Better Regulation forward work program. Taskforce resources will continue to be devoted to the Commonwealth Deregulation workstream as these proposals are developed and implemented.

The Taskforce already represents the ACT Government on Commonwealth State groups for improving occupational mobility, modernising business communication and the reform of State and territory fundraising laws which is one of the projects identified under the workplan for streamlining overlapping regulation.

Like all governments, the Commonwealth has recognised the need to review its stock of regulation over time to remove barriers affecting Australia's productivity growth and competitiveness. Its most recent 'congestion busting' agenda commenced pre-COVID in 2019. However, in June 2020, the Deregulation Taskforce was moved to the Department of Prime Minister and Cabinet which renewed its deregulation agenda to 'zero in on areas to assist with COVID-19 economic recovery.'<sup>34</sup>

The Commonwealth's Deregulation Agenda:

- examines regulation from the viewpoint of business;
- focuses on regulator culture as much as the content of regulation; and
- builds on regulatory changes made as a result of COVID-19.

## Priorities

[Five priority workstreams](#) have been identified to date by the Commonwealth for this Agenda.

### Lifting regulator performance, capability, and culture

Phase One of this work program was delivered in June 2021. The centerpiece of this work is the [Regulator Performance Guide](#) which establishes the Commonwealth expectations of regulator performance and reporting via three best practice principles.

Phase Two of the work program is focused on promoting and supporting regulators and policy agencies to embed the Regulator Performance Guide. This includes a refreshing of Ministerial Statements of

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<sup>34</sup> Hon Scott Morrison MP, 2020. In: *CEDA's State of the Nation Conference*. [online] Available at: <<https://www.pm.gov.au/media/address-%E2%80%93-ceda%E2%80%99s-state-nation-conference>> [Accessed 10 March 2022].

Expectation and a stocktake of Australian Government regulatory functions to provide visibility of the regulatory landscape.

### Improving occupation mobility

The Automatic Mutual Recognition of Occupational Registrations (AMR) scheme removes the need for people to apply and pay for an additional registration or licence when working in another state or territory, saving them time and money.

AMR came into effect on 1 July 2021. It applied automatically in the ACT from that date. As a transitional arrangement, most of our occupational licences are temporarily exempt from AMR until 1 July 2022 as we work through a number of implementation challenges.

### Modernising business communication

This priority area focuses on identifying regulation that has not kept pace with digital communications and therefore adds a compliance cost to business. Analysis and consultation in relation to statutory declarations and deeds is underway to ensure that the regulations that govern the execution of these documents are understated, fit for purpose, and reflect the way Australians want to engage and communicate digitally. As the Commonwealth's *Statutory Declarations Act 1959* applies in the ACT, any amendments made to that Act because of this initiative will flow through to the ACT.

### Streamlining excise administration

This initiative is focused on streamlining the administration of excise and excise-equivalent customs duty regimes by the Australian Tax Office and Australia Border Force. A review will be undertaken by the Commonwealth to identify ways to cut regulatory overheads for business.

### Streamlining overlapping regulation

Under this priority, the Commonwealth is looking to partner with jurisdictions on practical projects to reduce unnecessary compliance costs to business when meeting 'overlapping' regulatory obligations between different agencies or governments.

The [ten projects](#) are intended to align with three key messages heard from business around the importance of:

- only telling governments once;
- leveraging trusted overseas standards and expertise; and
- providing one regulatory experience across the economy.

While the ACT is not yet seeking to partner with the Commonwealth on these projects, they will have significant implications for ACT businesses, for example, streamlining business registration nationally and streamlining business reporting to enable the pre-filing of business payroll tax lodgements.

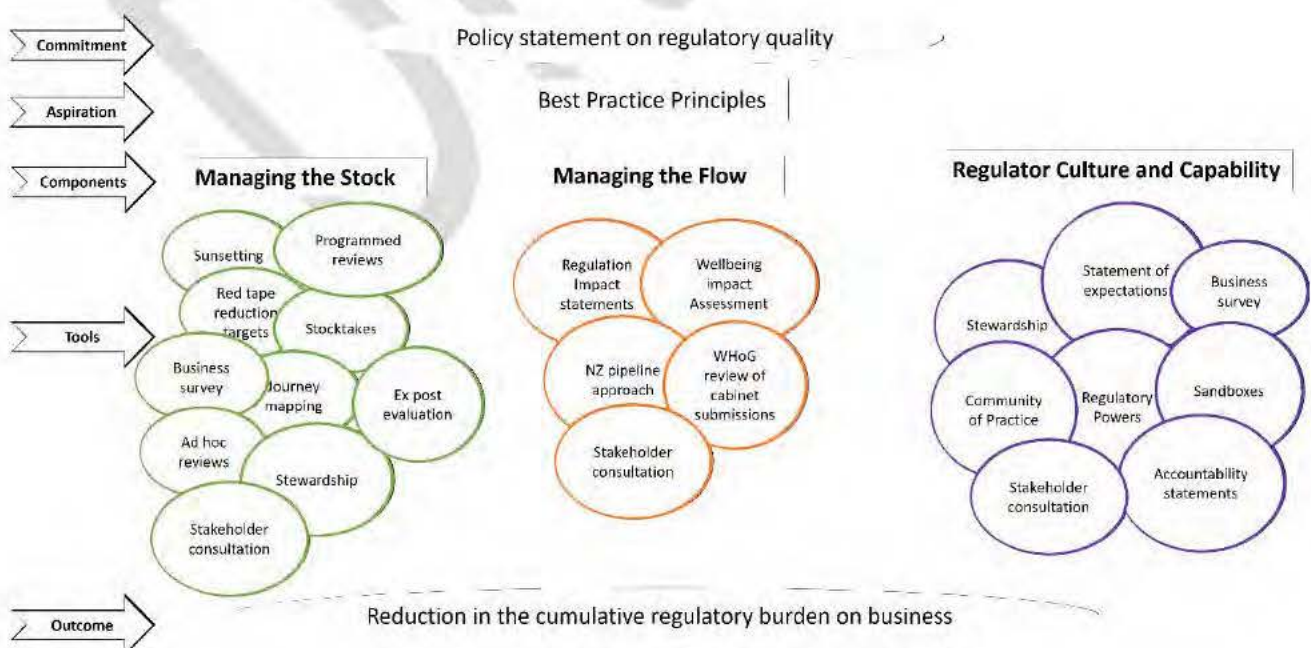
The Taskforce is part of the cross-jurisdictional working group on state and territory fundraising law reforms which is one of the ten projects listed in the workplan.

# APPENDIX G – REGULATORY QUALITY FRAMEWORK

Our analysis of regulatory reform approaches across Australia and abroad has shown that there is no single ‘right way’ to improve regulatory quality (Appendix E). Each jurisdiction has its own approach, processes, and arrangements to suit the specific regulatory landscape. What is common, however, is a recognition that achieving best practice and better regulation is usually underpinned by a framework that focuses on regulatory quality. The analysis suggests that there are a set of fundamental elements that underlie regulatory reform and support a robust regulatory quality framework. These are depicted in Figure 2 and include:

1. a government commitment to regulatory quality;
2. an aspirational statement of principles to ensure that regulation is proportionate, effective, and clear;
3. an understanding that a regulatory quality framework has three components, each of which must be addressed in a coherent and co-ordinated way to ensure regulator quality:
  - managing the stock of regulation to ensure it remains fit for purpose and reflective of best practice;
  - managing the flow of new regulation to ensure regulation-making is guided by robust processes that consider evidence, impact, risks, and benefits; and
  - regulator culture and capability which enables continuous improvement, achieves good regulatory outcomes, effectively engages with harms, and supports regulated entities to achieve compliance;
4. the deployment of regulatory management tools to address each of these three components. These tools must be fit for purpose and relevant to the context of the jurisdiction.

Figure 3: Regulatory Quality Framework Fundamentals





The ACT has in place some key elements of the fundamentals identified in our analysis. These appear across regulatory schemes, administrative units, the statute book and policies and procedures. They reflect the ACT Government's commitment to regulatory practice, which balances harm minimisation with the other objectives and interests of the community.

There is always opportunity for improvement as the Better Regulation program progresses in the ACT and it is important to consider 'what should the elements of an ACT Regulatory Quality Framework be?' Some current, foundational elements and regulatory management tools to draw on are summarised below (Box 4).

#### Box 4 – ACT foundational elements for Better Regulation

- The ACT has a dedicated ministerial portfolio for Better Regulation and has funded a Better Regulation Taskforce to make it easier to start, run and grow a business. This initiative works in concert with the Economic Development portfolio and the significant program of business support delivered throughout the COVID-19 pandemic.
- Access Canberra was established to provide a one-stop shop for ACT Government customer and regulatory services and to make access for the community to government services easier, simpler and faster.
- Access Canberra actively engages with businesses, community groups and individuals to identify areas to reduce red tape and improve government services. Access Canberra is often the first point of contact for individuals, organisations and businesses dealing with the ACT Government.
- The structure of Access Canberra as the primary regulatory agency of the ACT Government, supports the provision of effective guidance to regulated entities by simplifying the interaction of business and community with government, as well as provides opportunities to reduce duplication, streamline processes and join up functions.
- Access Canberra commits to several approaches which align with the principles of better regulation including an approach to regulatory compliance and enforcement that is risk based. It applies risk-based compliance approach to ensure that resources are targeted to where the risks of harm, unsafe practices or misconduct are the greatest, thereby strengthening its capacity to take action where the community and the environment are most at risk.
- Access Canberra encourages compliance through education and awareness.
- Access Canberra deploys a range of tools to address non-compliance with the laws that it enforces.
- The *Legislation Act 2001* requires the preparation of Regulatory Impact Statements to accompany certain types of proposed subordinate laws or disallowable instruments. Section 35 outlines the required content of these statements, which includes an assessment of costs and benefits; a statement of the objectives being met through the law; and the options that were considered to achieve these objectives.
- Some regulatory frameworks, such as the regulation of construction licensing under the *Construction Occupations (Licensing) Act 2004*, include as a tool supporting better practice in regulatory performance and capability, a Ministerial statement of expectations whereby the responsible Minister can, in consultation with the registrar, make clear government expectations in relation to functions of the regulator – within appropriate limitations to preserve the independence of the regulatory function.

- The ACT Government is using the Wellbeing Framework and the information it provides to inform government priorities, policies, and investment decisions – including through Budget and Cabinet processes.

DRAFT



**ACT**  
Government

# Discovery Phase Report

## Better Regulation Taskforce

April 2022

Chief Minister, Treasury and Economic Development Directorate

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# INTRODUCTION

## Background

The Better Regulation Taskforce (the Taskforce) was established as part of the ACT Government's response to the COVID-19 pandemic. The aim of the Taskforce is to help drive Canberra's recovery from COVID-19 and support long term economic growth by putting in place best practice regulatory settings.

The Taskforce's initial and primary focus is on making it easier to do business in the ACT. The Taskforce will support business to start, run and grow by putting in place better regulatory settings, and simplifying interactions between business and government. This is a three-phase program of whole of government work over 2.5 years led by the Taskforce. This includes a Discovery Phase, Analysis and Recommendations Phase, and Implementation Phase.

Across the three phases of the better regulation work program, the ACT Government will consult extensively with stakeholders to explore, validate, test and revise ideas and opportunities for reforms to regulation. Due to the changing context and conditions of the COVID-19 pandemic, the approach to delivery of this program has and will continue to be adaptive and sensitive to the changing context across these phases.

## Purpose

The purpose of this report is to reflect on the Discovery Phase. This includes outlining:

- the multifaceted approach the Taskforce took to understanding the changes to be made to achieve best practice regulation, and improve business user experiences when interacting with ACT Government;
- the Taskforce's findings across the Discovery Phase activities; and
- the proposed ACT Government better regulation work program to make it easier to start, run and grow a business in the ACT.

## The ACT Economic and Business landscape and COVID-19 impacts

### Economic Growth

The ACT is both one of the smallest and strongest economies in the country. As at November 2021, it contains a population of 432,300<sup>1</sup> with over 31,000 businesses<sup>2</sup> and has a gross state product (GSP) of over \$43.3 billion.<sup>3</sup> The ACT's economy has grown strongly and steadily since 2015.

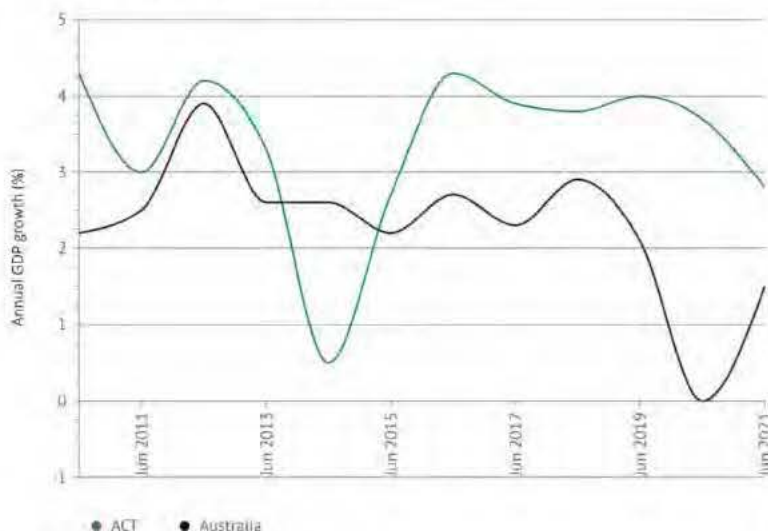
<sup>1</sup> Australian Bureau of Statistics. 2022. *National, state and territory population, June 2021*. Available at:

<<https://www.abs.gov.au/statistics/people/population/national-state-and-territory-population/latest-release>> [Accessed 21 February 2022].

<sup>2</sup> Australian Bureau of Statistics. 2022. *Counts of Australian Businesses, including Entries and Exits, July 2017 - June 2021*. [online] Available at: <<https://www.abs.gov.au/statistics/economy/business-indicators/counts-australian-businesses-including-entries-and-exits/latest-release#key-statistics>> [Accessed 21 February 2022].

<sup>3</sup> 5220.0 Australian National Accounts: State Accounts, Table 1. Gross State Product, Chain volume measures and current prices.

Figure 1: Economic growth in ACT - 2010-2021<sup>4</sup>



### ACT Business landscape

The ACT has a unique business landscape that sets it apart from other Australian jurisdictions. The Australian Bureau of Statistics demonstrates a 5.8 per cent increase in the number of businesses in the ACT during the 2020-2021 financial year.<sup>5</sup> This was the largest percentage growth in any state or territory with an increase of 1,732 business, bringing the total active ACT businesses to 31,499 total. Of this amount in this period, the ACT had 11,437 small businesses (1-19 employees) and 18,517 non-employing businesses operating.<sup>6</sup> These types of businesses combined, make up over 95% of total businesses in the ACT. In 2020-2021, the survival rate of small and non-employing businesses varied across industries, with an average survival rate of 55.1% for non-employing businesses and 70.5% for small businesses (1-19 employees).<sup>7</sup>

### COVID-19 Impacts

Prior to the COVID-19 pandemic, the ACT had strong economic growth and business performance. The COVID-19 pandemic has and continues to impact the ACT in a myriad of ways. The impact of the pandemic in Australia and the ACT in 2020 was extensive, particularly on Micro, Small and Medium-Sized Enterprises. The industries significantly impacted included Construction, Retail Trade, Accommodation and Food Services, and Arts and Recreation Services.

### Emerging from the pandemic in 2020

The ACT performed strongly comparatively in 2019-20, avoiding a COVID-19 recession. Emerging from the initial shock of the pandemic at the end of 2020, the ACT had strong economic recovery and business participation. Particularly it saw recovery in Accommodation and Food Services, with growth subdued due

<sup>4</sup> SGS Economics and Planning Pty Ltd, 2021. *Australia's Economic Wellbeing*. [online] p.53. Available at: <[https://www.sgsep.com.au/assets/main/Publications/SGS-Economics-and-Planning\\_Australias-Economic-Wellbeing-2021.pdf](https://www.sgsep.com.au/assets/main/Publications/SGS-Economics-and-Planning_Australias-Economic-Wellbeing-2021.pdf)> [Accessed 21 February 2022].

<sup>5</sup> Australian Bureau of Statistics. 2022. *Counts of Australian Businesses, including Entries and Exits, July 2017 - June 2021*. [online] Available at: <<https://www.abs.gov.au/statistics/economy/business-indicators/counts-australian-businesses-including-entries-and-exits/latest-release#key-statistics>> [Accessed 21 February 2022].

<sup>6</sup> 8165.0 Counts of Australian Businesses, including Entries and Exits, June 2017 to June 2021. Released 16 December 2021. Businesses by Main State by Industry Class by Annualised Employment.

<sup>7</sup> 8165.0 Counts of Australian Businesses, including Entries and Exits, June 2017 to June 2021. Released 16 December 2021. Survival of Businesses by Main State by Subdivision by Employment Size Ranges.

to ongoing tourism constraints.<sup>8</sup> Nationally, some sectors were particularly hard hit by the emergence of COVID-19.<sup>9</sup> As of April 2020, the following sectors had experienced the most severe reductions in monthly turnover:

- Retail trade (down 23%);
- Accommodation and food services (down 38.6%); and
- Arts and recreation services (down 45.9%).

## Rise of Delta variant and lockdowns throughout 2021

The first half of 2021 was encouraging with the ACT's economy grew by 2.8% in 2020-21.<sup>10</sup> However, the sudden increase of cases across Australia led to further lockdowns in most jurisdictions which severely impacted economic recovery and business viability. Data for the September 2021 quarter shows that ACT, along with NSW and Victoria saw economic decline as a result of COVID outbreaks and associated lockdowns between July and September.<sup>11</sup> While the ACT entered lockdown under Public Health Orders following NSW, it had already been economically impacted by their lockdown. The ACT had a low drop in labour force participation during the first wave of COVID lockdowns, however the second wave of lockdowns in the ACT from August 2021 was far more severe. In the context of the discontinuation of the Federal Job-Keeper payment labour participation in 2021 fell to 79 per cent and unemployment rose to 6.2 per cent (the highest unemployment rate in the ACT since 1999).<sup>12</sup> Of the ACT's approximately 30,000 businesses, almost a third applied for COVID-19 Business Support Grants.<sup>13</sup>

ACT regulatory agencies played a key role during the lockdown period of informing and regulating businesses compliance with the public health directions. Different States and Territories took varying approaches in how they communicated to businesses the changing public health directions. Some relied extensively on online channels and strict enforcement, whereas we observed that Access Canberra used a broader range of methods such as site visits as part of their engage, educate and enforce method. While recognising that the public health restrictions limited business activity, they appear to have been implemented and regulated in a way that prioritised supporting businesses to comply.

The outdoor activation taskforce was also an interesting case example of how ACT regulatory agencies took a lead role during the period of restrictions to 'find solutions' to support businesses. Given the public health restrictions limits on indoor dining capacity, the taskforce identified and certified XX new or temporary expansions to permitted outdoor dining space.

## COVID 'normal' throughout 2022 and beyond

The continually evolving landscape of COVID and the impact of the Omicron variant requires adaptive government responses and fit-for-purpose regulation. The 'new normal' of living with COVID and evolution of variants in 2022 and beyond will bring new challenges for ACT business, as well as fundamentally change the ways in which economic growth and business participation takes place in the Territory. The pandemic has changed consumer behaviours and the ways that business trade, operate, and communicate as well as demonstrated the remarkable resilience of businesses in transforming operations within short periods of time.

<sup>8</sup> SGS Economics and Planning Pty Ltd, 2021. *Australia's Economic Wellbeing*. [online] p.5. Available at: <[https://www.sgsep.com.au/assets/main/Publications/SGS-Economics-and-Planning\\_Australias-Economic-Wellbeing-2021.pdf](https://www.sgsep.com.au/assets/main/Publications/SGS-Economics-and-Planning_Australias-Economic-Wellbeing-2021.pdf)> [Accessed 21 February 2022].

<sup>9</sup> <https://www.abs.gov.au/statistics/economy/business-indicators/monthly-business-turnover-indicator/latest-release#data-download>

<sup>10</sup> SGS Economics & Planning. 2022. *National economic growth hides the differing experiences across Australia's cities and regions, new report reveals* | SGS Economics & Planning. 7 December 2021 [online] Available at: <<https://www.sgsep.com.au/publications/insights/australias-economic-wellbeing-2>> [Accessed 21 February 2022].

<sup>11</sup> Ibid.

<sup>12</sup> SGS Economics and Planning Pty Ltd, 2021. *Australia's Economic Wellbeing*. [online] p.6. Available at: <[https://www.sgsep.com.au/assets/main/Publications/SGS-Economics-and-Planning\\_Australias-Economic-Wellbeing-2021.pdf](https://www.sgsep.com.au/assets/main/Publications/SGS-Economics-and-Planning_Australias-Economic-Wellbeing-2021.pdf)> [Accessed 21 February 2022].

<sup>13</sup> ACT Government, Budget 2021-2022, Budget Outlook, Canberra, October 2021, p.17. <<https://www.treasury.act.gov.au/budget/budget-2021-22/budget-papers>>.



# WHAT IS REGULATION?

## Defining regulation

Generally, regulation is considered to encompass legally enforceable instruments made by governments that impose obligations on business and community. This is the black letter law, including legislative acts, regulations, and instruments. More broadly, some consider the term to also include quasi-legal documents, such as codes of practice, guidelines, advice, and notices. However, from our engagement we understand that government regulation is perceived by business to comprise all dealings they have with government to carry on their business, and so includes regulator culture, posture, and practice.

Regulation plays an important role in limiting harms and promoting social, economic, and environmental wellbeing. However, it also imposes costs and burdens.

## Managing the cumulative burden of regulation

Time and money spent by business on regulatory compliance is known as the burden of regulation. If the burden is too great, it may divert business away from productive activities, stifling their capacity “to innovate, be entrepreneurial and respond creatively and quickly to market opportunities or threats.”<sup>14</sup>

The Productivity Commission notes that “[business] can find it difficult to distinguish the jurisdictional source of regulatory problems...[and] often it is the accumulation of regulation that is the main problem”.<sup>15</sup> The burdens of regulation on business can be cumulative where regulation is not consistently and proactively reviewed and managed. While an additional regulatory proposal in isolation may appear to add little to business compliance requirements, when added to existing demands it may create a significant impost. The burden of regulation also has impacts for the regulator and its performance where limited resources must be allocated to initiatives that do not most effectively address risk.

Governments have endeavoured to strike the appropriate balance of achieving the legitimate aims of regulation, whilst minimising burden. Governments have sought to do this by refining how, when, and why they regulate. Varying agendas for better regulation, deregulation, best practice regulation, regulatory reform and red-tape reduction are driven by a need to rationalise the growing volume of regulation.

Tackling the cumulative burden of regulation is a complex task. It is ongoing, iterative, and reflective. It is about evaluating the current stock of regulation and it is also about managing the flow of new regulation. It involves developing principles of better regulation which can be consistently applied.

In the ACT, the pandemic introduced novel regulations, while also exacerbating the burden of existing regulatory frameworks. However, the pandemic also highlighted the productive relationships between government and business to be responsive and improve regulation and reduce burden. This formed the context and basis for which the Taskforce was established. The Taskforce sought to examine and apply the lessons learned during the COVID-19 response, such as maintaining clear and open communication, prioritising adaptability and rapid action and engaging with risk to achieve the best outcomes for business in the ACT.

<sup>14</sup> NSW Government Treasury, 2019. *NSW Government Guide to Better Regulation*. Sydney, p 5.

<sup>15</sup> Productivity Commission 2011, *Identifying and Evaluating Regulation Reforms*, Research Report, Canberra, p.xvii.

# APPROACH

During the Discovery Phase the Taskforce undertook a multifaceted approach to understand the changes to be made to achieve best practice regulation and improve business user experiences when interacting with ACT Government.

As set out in detail at [Appendix A](#), the Taskforce has sought answers by undertaking:

- Engagement with business and stakeholders;
- A wide-ranging legislative review; and
- Jurisdictional analysis.

Additionally, the Taskforce worked collaboratively with all other Australian jurisdictions to progress the Commonwealth's national deregulation agenda, ensuring the ACT realises the potential opportunities and benefits to be derived from the Commonwealth program.

# FINDINGS – WHAT WE HEARD THROUGH OUR ENGAGEMENTS WITH BUSINESS

Across our engagements with business some key themes emerged. These included:

- Small business information and communications;
- Simplification of Government to Business interactions;
- Regulator Practice (clarity, capability, culture, and continuous improvement);
- Programs and Support for SMEs;
- Skilled workforce; and
- Continuous improvement – reviewing legislation and regulations.

## Small business information and communications

Small business operators are very diverse, requiring varied communication needs and engagement preferences. Through our engagements we have heard:

### Business needs and preferences

- Business has limited time and resources to seek out relevant government information.
- Business needs information to be clear, targeted and promoted for their awareness.
- Generally, most prefer business specific communication channels over general channels, and there is a strong preference for digital information over hard copy materials.
- Business has different information needs depending on what stage of the business lifecycle they are in. There is a need for information and advice at key growth stages as businesses grow and take on new responsibilities such as hiring staff or embracing more sophisticated management approaches.

### Online information – accessibility

- With an increased focus on providing information online there is a need to ensure that information on websites is clear, easy to read and use, and regularly updated for currency (including links).
- Website information needs to be accessible across a range of digital devices, including mobile phones and other personal digital devices.

## Personal contact points

- Communiqués and information sent from the ACT Government should provide businesspeople with an opportunity to talk to a human being. Much information is routed through websites, and there is no phone number or other way in which affected business can talk to an officer.
- After accessing information online, business operators and start up entrepreneurs often need to talk to someone in government personally. Some have ideas or questions not resolvable online; others find existing text confusing or contradictory and need clarification.
- Government should give business operators an opportunity for phone calls, to help answer questions, give the personal touch and get feedback or identify problems from business.

## Communiqués about regulatory changes

- Any proposed changes which are likely to impact on business costs, trading hours or employment practices should be advertised and made clear well in advance of any such changes being implemented. There needs to be sufficient time to communicate with business owners and for the necessary changes to be made to operations.
- Any information or consultation about regulatory changes which may impact small business need to include small business advisors (e.g. accountants, legal advisors) and peak bodies as key audience groups as they play an active role in filtering and nuancing information for their small business clients.

## Providing targeted information, advice, and support to business

Business suggested various methods (physical and virtual) to provide targeted information and advice to support them in starting, running, and growing a business in the ACT. These included:

- A business centre which provides assistance from a credible source (i.e. being able to speak to someone who has run a business and understands the realities of running a business).
- An easy to access business hub to better connect business with government, including getting information on available business support, i.e. rebates and grants with industry specific support.
- A business concierge service which provides a dedicated agent who can answer questions about what services and supports are available to business, and how to access them.

## Simplification of Government to Business interactions

Business expressed varied experiences of their interactions with government and the ease of doing business in the ACT. Business raised issues with some processes and approvals associated with running their business and with holding a major event in the ACT. Business also raised ideas for potential innovation and simplification of government to business interactions. We heard that:

### Processes and approvals

- Approval processes can be difficult, drawn out and there can be minimal or no update on the process after lodgement of the application. Some examples include the:
  - processing times of working with vulnerable people checks;
  - processing times and consultation requirements for development approvals;
  - difficulties that 'pop up' business experiences in navigating processes and obtaining necessary approvals;
  - ease of seeking events approvals, especially for repeated annual events where applicants must undergo the same processes afresh; and
  - duplicative processes within and between the ACT Government and the Commonwealth (for example seeking approvals from the National Capital Authority).
- Processes and approvals could be supported by:
  - improving processing times and communications on the progress of applications;

- applying a 'yes' first regulatory culture and explaining 'how' stakeholders can do or achieve something;
- applying a 'tell us once' principle where the same information must be provided to different ACT Government agencies, or when the same event is repeated over time (e.g. yearly); and
- empowering those working on the ground to suggest improvements to processes based on stakeholder input and feedback.

## Streamlines business reporting – Tell Us Once Principle

- Business gets frustrated when they are required to provide the same information to different government entities.
- A 'tell us once' principle could be adopted so that business must only submit similar information to ACT regulators once (for example updating information about board members).
- This principle could also be adopted for other information requirements relating to licensing (for example (fit and proper person test).

## Business licences and renewals

- Many business licences are offered on an annual basis, although renewal is routine and non-controversial.
- Renewing licenses is a task that takes up time and managerial effort.
- Business would like greater flexibility by being given the option for multi-year regimes, as well as annual renewals.

## Regulator Practice (clarity, capability, culture & continuous improvement)

Engagement with business has indicated that there are some areas for improvement to regulator practice. This encompasses improvements to regulator clarity, capability, culture, and employing a continuous improvement approach. Through our engagements, we heard that:

### Understanding the needs of business and providing a personalised approach

- Many business operators perceive government as not fully understanding the experiences, burdens and stressors of running a small business.
- Business prefers to speak with those who understand and can empathise with the business experience.
- There needs to be a deepening of the level of business knowledge within the ACT public sector.
- Business dealings with government could be improved by:
  - encouraging government to actively recruit public service candidates with a former business or business-enabling background;
  - educating regulators to understand the experience of the business community and help support productive dialogues, possibly through professional placements within industry associations;
  - using co-design processes to bring business stakeholders into earlier parts of the regulatory design stage; and
  - creating a personalised approach to regulatory compliance activities through a case manager approach, so business can develop ongoing productive relationships with regulator staff (individual or team). Facilitating contemporaneous feedback, tailored responses, the upfront triaging of issues and continuous improvement by regulators.

## Regulatory approach and compliance enforcement culture

- Regulatory policy needs to recognise the needs of business, be cognisant of the impact of regulation on small business at a community level and seek to minimise the cumulative burden of regulation.
- Business stressed the importance of regularly measuring the burden of regulation on business: both actual and perceived through annual or bi-annual surveys.
- Business called for the ACT to lead the way by applying a 'think small first approach' to regulation, wherein laws are written first and foremost for small business, considering their ability to apply. If greater or high standard of compliance are expected by larger firms, then this should be an explicit addition to the law.
- Business called for the ACT to strive to have identical or similar laws to those in NSW, unless there is good reason not to do so. Reducing the cost of different regulation for two adjacent jurisdictions.
- Business also suggested the ACT compare and contrast its performance to that of nearby regional NSW. The ACT should at least match, or better, the operating environment for business in NSW.

## Supporting straightforward business compliance and alleviating the burden of regulation

- Straightforward business compliance could be supported by:
  - developing a streamlined online portal that allows business to quickly understand which regulations apply to them, and which provides educational material on how they can fulfil their requirement;
  - making regulatory compliance straightforward by ensuring clarity around rules;
  - reducing the subjectivity in regulation and its application;
  - ensuring legislation, policy, procedures and fact sheets are written in plain English;
  - providing improved factsheets and checklists to support business understanding and compliance, as well as preparedness for inspections;
  - refining Access Canberra's role through improving upfront triaging of issues and adopting a case manager approach to regulation and compliance;
  - providing simple, accessible training to support compliance;
  - clarify the ACT's regulators and Ministerial portfolio responsibilities and 'who does what', so business knows who to speak to about specific issues; and/or
  - ensuring that regulators take the time to understand the perspective of regulated entities (i.e. 'walking in the shoes' of business).
- Where there are multiple regulatory agencies, government and regulators need to alleviate the burden on business through:
  - ensuring that the regulation is justified through cost-benefit analysis;
  - ensuring appropriate co-operation and coordination (for example coordinating inspections and where possible, holding them at off-peak times);
  - easy and swift interactions with government agencies; and
  - investing in, and using, digital technology (RegTech) to ease interactions with government agencies.

## Programs and Support for SMEs

Small to medium enterprises (SMEs) expressed the ongoing need for programs and support, throughout COVID-19 and beyond.

Business was encouraged by some of the COVID-19 business support initiatives, including the Choose CBR program and the waiving or reduction of hire car registration costs during the peak of the COVID-19 pandemic.

Outside of COVID-19 specific supports, business indicated the need for general business support for those in the growth stage of the business lifecycle. Business noted that there are many existing grants for start-ups and big business, but not for those in the middle, which makes it difficult for those trying to scale up their operations to access tailored information and support.

Business, particularly SMEs, also expressed a strong desire for support in understanding government procurement requirements, and in bidding for government procurement opportunities.

## **ACT Government Procurement**

Business identified some current barriers to undertaking procurement. We heard that:

### **Understanding and awareness and SME engagement**

- The ACT Government procurement system can be confusing. There is an apparent lack of SME understanding of the various procurement opportunities available across different sectors. This includes a lack of understanding about SME eligibility to bid for ACT Government contracts and how to apply to get onto ACT Government panels.
- ACT Government employees undertaking procurement often don't understand the realities of running a business and what they are asking of business through procurement processes. This includes the costs associated with bidding for ACT Government contracts.

### **Aboriginal and Torres Strait Islander and women owned business**

- Women owned and led business and Aboriginal and Torres Strait Islander own and led business both identified that more could be done to increase their participation and share of ACT Government contracts, including by challenging perceived bias.

### **Procurement framework – procurement policies and practice**

- The existing procurement thresholds are outdated and should be reviewed for currency.
- There could be greater clarity about how to make an unsolicited bid and how it will be dealt with.
- Panels depending on the frequency in which it is refreshed can be a barrier for SME participation.

### **Tender documentation and contracts**

- Stakeholders identified liability and insurance provisions in ACT Government contracts as a potential barrier for SMEs. They suggested that the contract liability and insurance provisions be reviewed and reformed including those clauses relating to uncapped liability, consequential loss and proportionate liability.
- There is a perception that there is little to no tolerance for failure in ACT Government procurement. Mitigating risk leads to the removal of risk entirely making it harder for new, unproven business to be successful.
- There is a need to continue to move away from output reporting and towards outcomes-focused procurement and contracting.
- In respect of the not-for-profit sector, it was noted that there is a need to rationalise the accumulative burden of contractual reporting requirements and grant funding reporting requirements.

### **Comfortable communications**

- While acknowledging procurement and probity requirements, government officials can often be risk adverse in their communications with prospective respondents/tenderers. Communications can be quite bureaucratic.
- Where human questions are asked business would like human answers.

## Linking procurement policies and practice to broader ACT Government objectives

- While acknowledging the importance of the Government procurement values and social procurement in the broad, business noted the time it takes to respond to these criteria in procurement documentation does not often align with the weighting assigned to it.
- There could be greater clarity given about Territory objectives for small business, and how business can reach those objectives. If there are quotas, share them with industry. For example, stakeholders suggested using quotas for female representation through procurement processes and contracting as this is more likely to achieve intended outcomes (i.e increase female representation in certain industries). While others noted that this would also need to be supported through education and training measures.

## Greater certainty through forecasting

- Early market engagement and improved forecasting would provide greater clarity to industry. This includes upcoming projects and budgets.
- There is a need to provide greater certainty of infrastructure spend beyond two years.

## Debriefing

- There is little or no feedback provided for failed bids making it harder for business to learn from their mistakes. Where feedback is provided, it often provides little utility to help business improve their bids in the future. Noting that there are inconsistencies between directorates in their approach to debriefing respondents/tenderers.

## Identified opportunities

Stakeholders identified some opportunities to support having a best practice procurement framework and participation of SMEs in supplying to the ACT government. These included:

### *Championing local business*

Provide clear pathways to follow which make it easy for a business to check their eligibility and bid for ACT Government contracts. Build engagement with, and the confidence of, local SMEs to bid for ACT Government contracts.

### *Best Practice Procurement Framework*

Maintain a best practice procurement framework by undertaking regular reviews for currency. Review procurement thresholds, communicate the importance of government procurement directions and/or policy objectives to industry and appropriately weight them, and provide greater certainty to industry through forecasting.

### *Best practice tender documentation and contracts*

Review ACT Government contract liability and insurance provisions and consider incentive-based contracts.

### *Have a 'go to' place for connection*

A central place where SMEs can go to access public facing procurement information and supports. This could include toolkits and guidelines (in plain English), 'how to' videos, tables which summarise all existing panels and their refresh dates, and an SME supplier list (pre-vetted against the procurement values).

### *Feedback mechanisms for continual improvement*

Provide respondents/tenderers a debrief consistent with ACT Government debriefing guidelines.

### *Increased ACT Government knowledge and capability*

Ensure consistency in the approach to procurement across Territory entities. Increase the level of knowledge of the procurement framework and capability to undertake procurement across Territory entities. Ensure the people running procurement confidently communicate and answer respondent/tenderer questions, whilst also complying with probity requirements. Provide human answers to human questions.

## Skilled Workforce

Having skilled staff when they need them, was a common issue raised by business, particularly in the context of COVID-19. We heard that:

- Business cannot access the staff they need to run and grow their business.
- Skilled workforce shortages have been experienced across a variety of industries, causing business complexities including pressure on staff wages.
- Business wants to ensure that there are reciprocal recognition of licenses, to support occupational mobility from interstate. This includes a broad program of Mutual Recognition, being undertaken at a national level and specific supports to understand and facilitate transfers of certificates or jurisdictional specific further training.
- Commonwealth and ACT Government measures should work together to support the attraction of workers to the ACT and the hiring/upskilling of staff, including (but not limited to):
  - affordable housing;
  - city renewal and activation;
  - incentives for business to take on apprentices; and
  - visas conditions, for example ordinarily international students are permitted to work 20 hours a week (40 hours a fortnight) while courses are in session, and unlimited hours when their course is out of session.

## Continuous Improvement – Reviewing ACT Legislation and Regulations

Engagement with business has identified potential focus areas for review and reform to ensure fit-for-purpose and best practice regulation. This includes effort to both manage the existing 'stock' of regulation as well as the 'flow' of new regulation. These have varying levels of complexity.

Business raised the need for continuous review and improvement to:

- address regulatory issues faced by the night-time economy and entertainment sectors, with particular focus on noise, outdoor dining and liquor licensing;
- implement a best practice procurement framework for SMEs through reviewing the Procurement Act and Regs;
- enhance labour mobility through the implementation of a uniform scheme for automatic mutual recognition of occupational licenses;
- update:
  - employment agent licensing requirements;
  - model rules for incorporated associations;
  - references to outmoded payment methods in legislation; and
  - training requirements for the responsible service of alcohol framework.

Business raised other focus areas which require further analysis including:

- consideration of a potential licensing framework for individuals as motor vehicle repairers; and
- support for diversification out of gaming through changes to 'lease purpose clauses' definitions (for example changing the definition of 'club' in the territory plan to allow additional uses).



Business suggested that in reviewing and updating legislation and regulations generally that regard should be given to a regulatory approach which:

- thinks 'small first';
- achieves cross border alignment, where possible, to reduce burden on those business operating across jurisdictions (regional NSW and ACT); and
- reduces overlapping regulation and streamlining compliance reporting (applying a 'tell us once' principle).

## FINDINGS – LEGISLATIVE REVIEW, IDENTIFIED OPPORTUNITIES

Throughout the Discovery Phase, the Taskforce commissioned a legislative review to support the objectives of the Taskforce to identify the purely regulatory landscape impacts on business in the ACT. The wide-ranging legislative review identified opportunities for regulatory review and reform to reduce regulatory burden on business.

The focuses of the legislative review were to review key legislation to:

- 1) Reduce the need for business to contact multiple Government agencies;
- 2) Ensure legislation across the ACT supports new business models to grow the digital economy; and
- 3) Identification of opportunities to reform legislation to ensure regulatory settings remain fit for purpose and consistent with best practice principles.

### Research undertaken

The potential review projects were identified through the following processes:

- Scan of the entire ACT primary legislation database;
- Review of recent regulatory developments in Australia, across the Commonwealth and States, and New Zealand; and
- Review of the outcomes of stakeholder consultations conducted by the Taskforce.

### Potential Identified Projects

The legislative review identified six potential projects for review.

#### Project 1 – Regulation of the 'entertainment economy'

Review the full legislative and regulatory arrangements for the entertainment economy, which straddles the industry sectors of accommodation and food services and arts and recreation services.

This project was identified through consultation which raised numerous and ongoing barriers faced by the sectors of accommodation and food services, and arts and recreation services, particularly throughout the COVID-19 pandemic.

There are many small businesses in the ACT seeking to operate in these sectors who have expressed concerns regarding the lack of a coordinated approach to approvals and regulations around operating their business. The hospitality and entertainment sectors have great potential to make a significant contribution to the ACT economy, the jobs market and the way of life of Canberrans generally. This review would consider the scope for a fundamental re-organisation of regulatory arrangements affecting the 'entertainment economy'. The review could examine legislation and regulatory practice in areas including

land use, food and beverage regulation, and noise control. It may consider appropriate alternatives to arrangements currently requiring prior approval.

## **Project 2 – Standardise procurement processes across ACT Government**

Standardise procurement processes across ACT Government and consider scope to implement preferential treatment for local content.

Consultations with business have identified barriers for business throughout ACT Government procurement practices.

A possible review could examine the scope for legislation to provide for the following specific measures:

- appropriate risk assessment and management practices and standards (including insurance requirements for contractors);
- obligations to provide information/feedback concerning tenders; and
- preference for local content in procurement decisions.

## **Project 3 – Technology specific legislation**

General review of legislation to remove any obligations requiring use of a particular technology, including paper-based documents including paper-based documents.

This project focuses on a broad review to ensure updates to legislative vernacular to ensure outdated technologies are not continuing to be required.

Although reforms of this kind have been undertaken in the ACT over recent years, there appear to be benefits from a further review of legislation, statutory instruments and administrative practice in this area. The objective is to enable full use of modern digital technology appropriate to the circumstances. Reviews of these kinds are currently underway in other jurisdictions, including the Commonwealth.

Removal of requirements to provide information in a particular manner will minimise costs to business. Scrutiny of such legislation or other regulatory practices also provides an opportunity to identify and remove requirements that are unnecessary or overly prescriptive. This project could review legislation and regulatory practices which require, or presume, communications by means of a particular technology, such as a paper-based notice or a meeting requiring personal attendance. This includes arrangements currently suspended because of the COVID-19 pandemic.

## **Project 4 – Scope for cross-border alignment**

General review of ACT and NSW business regulation legislation to maximise cross-border alignment with NSW, with a focus on legislation having significant impact on small business.

This project is very relevant for the ACT as a small jurisdiction surrounded by regional NSW. Many businesses, including many small businesses, operate both within the ACT and surrounding areas of New South Wales. Compliance costs due to a lack of regulatory alignment impact disproportionately on small business. A review of regulation and analysing opportunities for regulatory alignment with NSW would clearly make it easier to do business across NSW and the ACT.

A full review of the alignment of ACT legislation with that of NSW would require detailed examination of legislation and regulatory practice across both jurisdictions. This would require consideration of a wide range of policy questions where divergences are identified.

### Project 5 – Regulatory overlap

Review of regulator/regulation overlap and duplication to reduce touchpoints, with a focus on legislation having significant impact on small business.

Businesses, both in the ACT and across Australia have expressed concern about regulatory overlap and duplication that has significant financial and time cost impacts. Often this experience can involve the need to deal with different regulations and different regulators for the same, or a similar activity. Stakeholders seek simplified business to government interactions and a ‘tell us once’ approach.

A review could identify areas of overlap or duplication which can be streamlined to make processes simpler and more transparent. This project aligns with Commonwealth government objectives to streamline processes and eliminate duplication.

This review would involve further consultation with business to identify any other areas where regulatory overlap may exist and where its removal would have practical benefits for business.

### Project 6 – Regulator Performance

Introducing legislation to improve regulator performance.

Ensuring continuing improvement and standards for regulator best practice and performance will benefit business. This could be achieved through changes to legislation to support better regulatory settings and practices. The Productivity Commission has noted studies showing that up to 50% of unnecessary costs for business are due to how regulators implement regulations.

Stakeholders frequently request guidance for regulatory compliance to be provided in a more accessible form. Stakeholders have frequently requested clearer guidance for regulatory compliance such as improved checklists and information, provided in a more accessible form such as a streamlined online portal.

The concept of ‘stewardship’ has been promoted in several jurisdictions. The objective is to impose duties on regulators to assess effectiveness and appropriateness of legislation and regulatory practice on a regular basis.

The Productivity Commission has noted that better outcomes for small businesses and the community are achieved when regulators have a range of tools that enable them to tailor their responses to breaches (or potential breaches) of regulation in a proportionate way, rather than having to rely solely on combative approaches such as initiating legal proceedings.

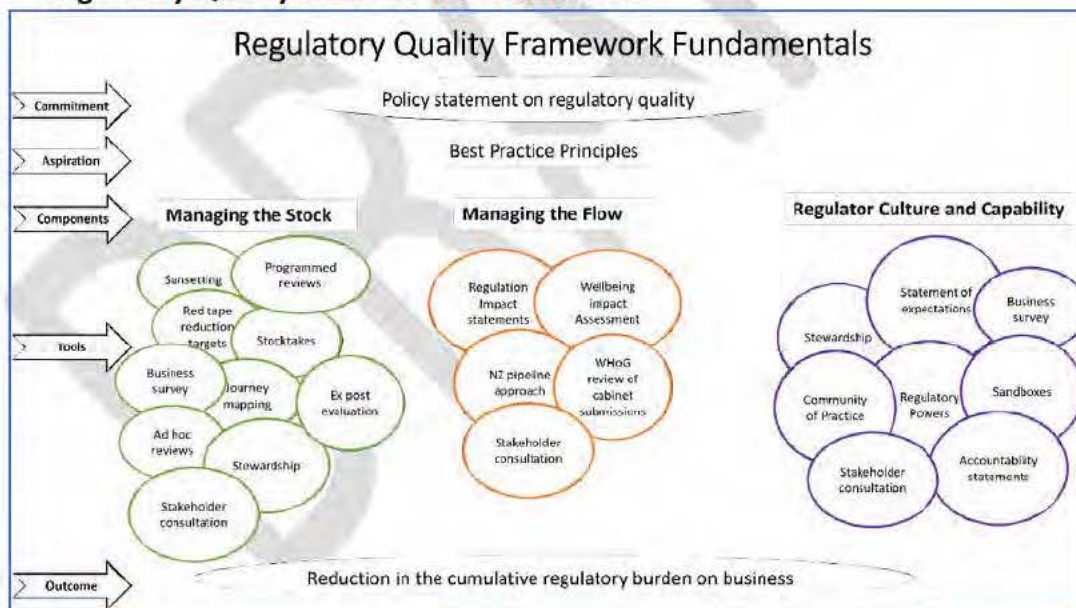
## FINDINGS – LEARNING FROM OTHERS

The Taskforce, as set out in this section, has drawn on projects of regulatory reform across Australia and abroad. Based on a desktop review, this chapter examines the way in which other governments have approached regulatory reform, including the principles, processes, tools and institutional arrangements.

This analysis has shown that there is no single 'right way' to improve regulatory quality. Each jurisdiction has its own approach, processes, and arrangements to suit the specific regulatory landscape. What is common, however, is a recognition that achieving best practice and better regulation is usually underpinned by a framework that focuses on regulatory quality. The analysis suggests that there are a set of fundamental elements that underlie regulatory reform and support a robust regulatory quality framework. These are depicted in Figure 2 and include:

- a government commitment to regulatory quality;
- an aspirational statement of principles to ensure that regulation is proportionate, effective, and clear;
- an understanding that a regulatory quality framework has three components, each of which must be addressed in a coherent and co-ordinated way to ensure regulator quality:
  - managing the stock of regulation to ensure it remains fit for purpose and reflective of best practice;
  - managing the flow of new regulation to ensure regulation-making is guided by robust processes that consider evidence, impact, risks, and benefits; and
  - regulator culture and capability which enables continuous improvement, achieves good regulatory outcomes, effectively engages with harms, and supports regulated entities to achieve compliance;
- the deployment of regulatory management tools to address each of these three components. These tools must be fit for purpose and relevant to the context of the jurisdiction.

Figure 2 – Regulatory Quality Framework Fundamentals



The following desktop scan includes an exploration of how these fundamental elements of a regulatory quality framework manifest in other jurisdictions.

### A government commitment

The Organisation of Economic Co-operation and Development (OECD) emphasises the need for government to commit to a policy for regulatory quality.

The 2012 *Recommendation of the Council on Regulatory Policy and Governance* called on all members to:

“Commit at the highest political level to an explicit whole-of-government policy for regulatory quality. The policy should have clear objectives and frameworks for implementation to ensure that, if regulation is used, the economic, social and environmental benefits justify the costs, the distributional effects are considered, and the net benefits are maximised”.<sup>16</sup>

In unpacking this recommendation, the OECD calls for governments to develop and maintain a strategic capacity to ensure regulatory policy remains relevant and effective. A part of this capacity should be a regulatory management system which employs both *ex ante* impact assessment (that is, prior to implementing regulation) and *ex post* evaluation to assess performance and outcomes. Consultation on the design, development and revision of regulations underpins the management system.

At the heart of the OECD’s recommendation is the need for a government-endorsed framework which puts in place measures to ensure that regulation is proportionate, effective, and clear. Commonly, this commitment is given expression through a set of principles developed by governments to guide best practice in regulation-making.

Examples of these principles from the Commonwealth and New South Wales are discussed below. In all cases, the principles include the OECD’s requirements for an *ex ante* assessment, an *ex post* evaluation and stakeholder involvement.

## Aspiration – Best Practice Principles

The 2007 Council of Australian Government (COAG) agreed principles for best practice regulation contain several elements that are fundamental to ensuring regulation is proportionate, effective, and clear. Many Australian jurisdictions either explicitly align their own regulatory policy with the COAG principles,<sup>17</sup> or have developed their own aspirational statements of best practice to guide stock and flow management as well as regulatory performance.

### Box 1 – COAG-agreed Principles of Best Practice Regulation

Principle 1: Establishing a case for action before addressing a problem;

Principle 2: A range of feasible policy options must be considered, including self-regulatory, co-regulatory and non-regulatory approaches, and their benefits and costs assessed;

Principle 3: Adopting the option that generates the greatest net benefit for the community;

Principle 4: In accordance with the Competition Principles Agreement, legislation should not restrict competition unless it can be demonstrated that:

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

Principle 5: Providing effective guidance to relevant regulators and regulated entities in order to ensure that the policy intent and expected compliance requirements of the regulation are clear;

Principle 6: Ensuring that regulation remains relevant and effective over time;

Principle 7: Consulting effectively with affected key stakeholders at all stages of the regulatory cycle; and

<sup>16</sup> OECD Regulatory Policy Committee, 2012. *Recommendation of the Council on Regulatory Policy and Governance*. Organisation for Economic Co-operation and Development, p.4.

<sup>17</sup> See, for example, the Queensland Government *Guide to Better Regulation* [online] Available at: <<https://s3.treasury.qld.gov.au/files/Queensland-Government-Guide-to-Better-Regulation-May-2019.pdf>>

**Principle 8:** Government action should be effective and proportional to the issue being addressed.

Independent reviews of good regulation in NSW have recommended that regulation cannot be a 'set and forget' exercise and requires regular and frequent engagement and iterative improvement. In 2019 NSW Treasury released the *NSW Government Guide to Better Regulation*,<sup>18</sup> building on the NSW Better Regulation Principles and policy-making requirements that have been in place since 2008.

All new and amending regulatory proposals in NSW are required to demonstrate application of the Better Regulation Principles and the 2019 guide provides a resource for policy makers to consider and demonstrate how the principles are reflected in proposals.

## Box 2 – New South Wales Better Regulation Principles

**Principle 1:** The need for government action should be established. Government action should only occur where it is in the public interest, that is, where the benefits outweigh the costs.

**Principle 2:** The objective of government action should be clear.

**Principle 3:** The impact of government action should be properly understood, by considering the costs and benefits (using all available data) of a range of options, including non-regulatory options.

**Principle 4:** Government action should be effective and proportional.

**Principle 5:** Consultation with business, and the community, should inform regulatory development.

**Principle 6:** The simplification, repeal, reform, modernisation or consolidation of existing regulation should be considered.

**Principle 7:** Regulation should be periodically reviewed, and if necessary reformed, to ensure its continued efficiency and effectiveness.

## Components and tools

Regulation is likely to be 'better' when there are processes and institutions in place to:

- manage the existing stock of regulation;
- manage the flow of new regulation; and
- continuously improve regulator culture and capability.

The regulatory system should ensure that these components are performed in a coordinated and cost-effective way. Linking back to the OECD recommendation, government commitment to the management of each component is essential.

Jurisdictions deploy a variety of tools and approaches to address the components and some of these approaches are described here.

Not all jurisdictions have been included in this brief survey, and it is not intended to draw conclusions about the merits of different approaches. The information has been collated as an information source on what a better regulation framework *can* look like, not what they *must* look like.

## Commonwealth

The Australian Government continues to play a leading role in describing best practice for regulation-making, and regulatory practice in Australia. The Commonwealth brings together the components of a regulatory quality framework through its newly created Deregulation Agenda. The agenda "will focus on

<sup>18</sup> NSW Government Treasury, 2019. *NSW Government Guide to Better Regulation*. Sydney.

reducing barriers affecting Australia's productivity growth and competitiveness. It will also make sure regulations are well-designed, fit-for-purpose and support businesses to grow and create jobs".<sup>19</sup>

The deregulation agenda includes:

- key reforms that have been identified to manage the existing stock of regulation:
  - enhancing occupational mobility;
  - modernising business communications;
  - streamlining excise administration; and
  - streamlining overlapping regulation.
- management of the flow of new regulation through the Office of Best Practice Regulation (OPBR):
  - the Office works with departments and agencies to produce detailed, evidence-based assessments of complex policy issues.
  - According to OPBR, best practice regulation is achieved through the rigorous application of a Regulatory Impact Assessment framework. By applying this approach, the Commonwealth Government is looking to ensure that all policy decisions are evidence based and that "regulation is never adopted as the default solution, but rather introduced as a means of last resort."
  - A regulation impact statement is required where the impacts of a proposal are more than minor. Where Cabinet is the decision maker, a RIS is always required.
- the creation of a regulator performance function to increase accountability, promote best practice, build the professionalism of regulators and support cultural change. Best practice principles have been developed to underpin the Australian Government's expectation of regulator performance. Key features include:
  - adoption of a stewardship approach. Stewardship assists governments to manage the stock of existing regulation by placing responsibility on Ministers, Secretaries and Agency Heads to ensure that regulation and regulatory approaches remain fit for purpose. Stewardship assists governments to identify proposal for regulatory reform.
  - Ministerial statements of expectation and regulator statements of intent to establish the policies and priorities for the regulator.

An additional tool to manage the stock of regulation is the Commonwealth sunseting framework. Many legislative instruments<sup>20</sup> are automatically repealed after 10 years—this process is known as sunseting and is governed by the Commonwealth's *Legislation Act 2003*. The Productivity Commission notes that "the logic supporting sunseting is that much regulation inevitably has a 'use-by date' when it is no longer needed or will require significant modification. But without a trigger to reassess its utility, at least some of this regulation will inevitably remain in place."<sup>21</sup>

## New Zealand

New Zealand is recognised for its comprehensive and an innovative approach to regulatory quality.

### ***Better for Business (B4B)***

The centrepiece of its framework is the B4B program that is part of the Minister Business, Innovation and Employment. B4B is a comprehensive institutional response from government that reaches across managing the stock and flow of stock of regulation as well as regulator capacity and capability.

<sup>19</sup> <https://deregulation.pmc.gov.au/>

<sup>20</sup> The Sunseting framework was reviewed in 2017 and it was recommended that the sunseting framework not be extended to Acts.

<sup>21</sup> <https://www.pc.gov.au/inquiries/completed/regulation-reforms/report> page XVIII

B4B describes itself as the 'voice of Kiwi business.' Insights into the experiences of businesses have dealing with government are gleaned through in-depth research and analysis. B4B then works with government agencies by sharing and highlighting these insights with policy and operational teams within the agencies. The outcome is the reduction of the cumulative impact of compliance on small businesses.

The various government initiatives are mapped across a spectrum from 'avoiding burdens for small business' (top of the cliff) through to 'remediating burdens' (bottom of the cliff).

### ***Top of the cliff***

Top of the cliff initiatives include a regulatory impact assessment process aimed at achieving 'better new regulation'. The focus of this initiative is to ensure that adopts a small business lens to policy. Another measure at this end of the spectrum is the 'Better Rules Better Outcomes' which is aimed at simplifying existing regulation. This is a human centred design process for legislation and regulation. The Better Rules methodology aims to assist people and businesses to understand, benefit from and comply with legislation in an automated way. The Better Rules approach allows for legislation to be developed in software code as well as written language from the start. It avoids the need for later translation of legislation into software language, avoiding the risk of incorrect interpretation. The Better Rules methodology will be particularly helpful for activities like calculating eligibility criteria for a benefit, and financial reporting obligations. It is the human centred design (HCD) approach which is embedded in a rules as code approach which is valuable and capable of delivering significant benefits to business.

### ***Bottom of the cliff***

Initiatives to remediate burdens (bottom of the cliff) include the 'Better comms and support' responses such as New Zealand's Business website<sup>22</sup> which provides a central point for all business programs, information and support including 'How to Start a business'.

### ***Regulatory Technology***

New Zealand has invested in a comprehensive regulatory technology (RegTech) solution which assist in alleviating and remediating regulatory burden. Business Connect<sup>23</sup> is a digital service platform which enables businesses to:

- access and manage their business information from one place;
- use the data government already holds about them – their New Zealand Business Number (NZBN); will pre-populate the information they're most often asked to share;
- re-use the information they've previously provided to government;
- connect digitally across both local and central government; and
- more easily meet their compliance obligations.

## **New South Wales**

The NSW Government states that it is committed to continuous improvement of its regulatory policy framework to support and enhance opportunities for improved productivity.

Following an Independent Review of the NSW Regulatory Policy Framework in 2017, the New South Wales Government assigned responsibility for regulatory policy to the Treasurer and appointed a Commissioner for Productivity.<sup>24</sup>

<sup>22</sup> <https://www.business.govt.nz/>

<sup>23</sup> <https://businessconnect.govt.nz/>

<sup>24</sup> <https://www.treasury.nsw.gov.au/sites/default/files/2018-02/Independent%20Review%20of%20the%20NSW%20Regulatory%20Policy%20Framework%20final%20report.pdf>



In the context of economic recovery from COVID, the NSW Productivity Commission released in 2021 the *Productivity Commission White Paper*<sup>25</sup> identifying 60 opportunities to 'reboot' productivity growth. The white paper identifies four foundations upon which productivity growth should be built: talent, innovation, housing and infrastructure. The scope of the reform agenda in the White Paper is broad, with recommendations that range from education and schools to energy and taxes and housing and infrastructure.

Of central interest to the ACT Better Regulation Taskforce is the Paper's consideration of the costs and opportunities of regulation in a context of recovery and productivity growth. The White Paper argues that better regulation will:

- reduce unjustified restrictions on conduct;
- remove outdated, inconsistent, or unnecessary rules;
- reduce barriers to entry or price controls in network industries or occupations; and
- reduce compliance costs.

Recommendations for forward-looking regulation that supports competition and innovation include specific areas like drones, personal mobility devices and Automatic Mutual Recognition, but also whole-of-system reforms like amending legislation to translate rules to code where appropriate and adopting a negative licensing approach for low-risk licenses and activities.

Building on the White Paper, the NSW Productivity Commission recently released a discussion paper on regulating emerging industries which further articulates clear principles to underpin regulation in areas of technological change, to achieve safety, promote innovation and support industry. These principles propose that regulation should:

- be outcomes-focused – neutral to technology and focused on underlying objectives;
- promote a culture of regulatory experimentation – supporting trials, pilots and innovation; and
- be regularly monitored and reviewed – to assist in identifying barriers in the existing stock of legislation to the adoption of emerging technologies and ensure regulation remains fit for purpose.

As previously noted, New South Wales manages the flow of regulation through the application of best practice principles for better regulation to new and amending policy proposals.

## Victoria

Better Regulation Victoria (BRV) works with the Victorian Government and community to support the analysis, design, and implementation of best-practice regulation. It supports departments and agencies, and works closely with Victorian regulators, to deliver continuous regulatory improvements.

Working with the Commissioner for Better Regulation and the Red Tape Commissioner, BRV:

- Assesses the adequacy of regulatory impact assessments:
  - i.e., engaging with other departments and agencies undertaking impact assessments;
- Assists with the design, application, and administration of regulation
  - i.e., providing training on preparing impact assessments for public sector staff, and running workshops on impact assessments of complex issues
- Convenes the Regulators' Forum
  - i.e., a forum which brings together staff from regulators and relevant departments, whereby best practices can be shared
- Advises on and investigates complaints about competitive neutrality
  - i.e., upholding competitive neutrality between government and private enterprises providing the same service; and

<sup>25</sup> NSW Government, 2021. *Productivity Commission White Paper - Rebooting the Economy*. Sydney.

- Researches other regulatory issues as directed by the Treasurer or the Secretary of the Department of Treasury and Finance.

BRV also communicates with Victorian businesses and not-for-profits to identify improvements or ways to reduce unnecessary regulation, including:

- Opportunities to cut red tape, with a 25% red tape reduction target (timeframe unspecified)
- Improvements to regulators' dealings with business, including the design and implementation of regulation
- Areas of regulatory overlap
- 'Hotspots' where regulatory reforms can 'unlock' economic activity
- Improvements to regulation administration, such as removing unnecessary burdens.

## Queensland

The Queensland Government established a Better Regulation Taskforce<sup>26</sup> under its small business advisory council to provide periodic reports to Government on opportunities for regulatory reform, with a focus on specific sectors and engagement directly with business groups. Recommendations vary across the reports, but some key themes emerge as they call for:

- Consistent and risk-based approaches to rules and regulations; and
- Clear, specific guidance material for regulated entities.

Like most other jurisdictions in Australia,<sup>27</sup> Queensland has a sunseting regime and has also established the Office of Best Practice Regulation which administers the Queensland Government's regulatory review requirements, which aim to ensure regulation is necessary, well-designed and fit-for-purpose.

## Towards an ACT Regulatory Quality Framework

The ACT has in place some key elements of the fundamentals identified in our analysis. These appear across regulatory schemes, administrative units, the statute book and policies and procedures. They reflect the Government's commitment to regulatory practice, which balances harm minimisation with the other objectives and interests of the community.

There is always opportunity for improvement as the Better Regulation program progresses in the ACT and it is important to consider 'what should the elements of an ACT Regulatory Quality Framework be?' Some current, foundational elements and regulatory management tools to draw on are summarised below.

### Box 3 – ACT foundational elements and regulatory management tools

- The ACT has a dedicated ministerial portfolio for Better Regulation and has funded a Better Regulation Taskforce to make it easier to start, run and grow a business.
- The *Legislation Act 2001* requires the preparation of Regulatory Impact Statements to accompany certain types of proposed subordinate laws or disallowable instruments. Section 35 outlines the required content of these statements, which includes an assessment of costs and benefits; a statement of the objectives being met through the law; and the options that were considered to achieve these objectives.
- The structure of Access Canberra as the primary regulatory agency of the ACT Government, supports the provision of effective guidance to regulated entities by simplifying the interaction of

<sup>26</sup>Department of Employment, Small Business and Training. 2022. *Better Regulation Taskforce*. [online] Available at: <<https://desbt.qld.gov.au/small-business/advisory-groups/taskforce>> [Accessed 21 February 2022].

<sup>27</sup> Essentially, the Commonwealth, Queensland, Victoria, South Australia, and Tasmania's regulations/ subordinate legislation automatically expire (or sunsets) ten years after coming into force. The precise date of this differs between jurisdictions. New South Wales is similar, but regulations/ subordinate legislation automatically expire after five years.

business and community with Government, as well as provides opportunities to reduce duplication, streamline processes and join up functions.

- Some regulatory frameworks, such as the regulation of construction licensing under the *Construction Occupations (Licensing) Act 2004*, include as a tool supporting better practice in regulatory performance and capability, a Ministerial statement of expectations whereby the responsible Minister can, in consultation with the registrar, make clear government expectations in relation to functions of the regulator – within appropriate limitations to preserve the independence of the regulatory function.
- Access Canberra commits to several approaches which align with the principles of better regulation including an approach to regulatory compliance and enforcement that is risk based. It applies risk-based compliance approach to ensure that resources are targeted to where the risks of harm, unsafe practices or misconduct are the greatest, thereby strengthening its capacity to take action where the community and the environment are most at risk.
- Access Canberra encourages compliance through education and awareness.
- Access Canberra regulates several laws that provide a range of tools to address non-compliance with the laws that it enforces
- The ACT Government is using the Wellbeing Framework and the information it provides to inform Government priorities, policies, and investment decisions – including through Budget and Cabinet processes.

Drawing on this survey of best practice examples and the engagement and research undertaken during the Discovery Phase, the Better Regulation Taskforce has developed for consideration a set of draft principles to guide the next phase of work of the Taskforce. The principles are draft because they need to be tested for the coherency, effectiveness, and applicability in the ACT context. The draft principles for making ACT regulation better are:

## Box 4– Towards Better Regulation – Draft Principles for ACT

### Principle 1: Articulate the ‘why’

- Regulation should only be introduced and retained where there is a clear need for government intervention – a clear problem to be addressed or a clear outcome the government is trying to achieve.

### Principle 2: Assess the impact

- As a fundamental part of the policy development for legislation and regulation, an assessment of the impact of regulation (including its impact on wellbeing), within the context of existing regulatory burden, should be undertaken.
- This impact should be considered as a part of the government decision making process, including a consideration of a range of feasible policy options – including non-regulatory approaches.
- The assessment should include an assessment of risk and a consideration of risk appetite and tolerance.

### Principle 3: Be accountable

- When the government makes decisions about regulation and regulatory approaches, the basis for those decisions and supporting evidence should be publicly available by default.
- Regulator discretion should be supported by transparency and accountability measures.

### Principle 4: Make room for leading practices

- Regulation should allow regulators and regulated entities to innovate.
- Regulators should have access to a range of compliance and enforcement tools.

Principle 5: Put people at the centre

- Utilise human-centred design principles to ensure regulatory systems are effective and efficient.
- At all stages of the policy development and regulatory cycle, regular and effective consultation with stakeholders, especially regulated entities, should occur.

Principle 6: Easy to comply

- Regulation should be in plain language.
- Government systems should support seamless interactions between government and regulated entities.

Principle 7: Remain effective

- Regulation should be monitored and evaluated periodically to simplify, reform, modernise or consolidate.
- Regulators should regularly assess their delivery approaches and impact on regulated entities.

## THE COMMONWEALTH'S DEREGULATION AGENDA

The ACT's approach to better regulation must take account of the Commonwealth suite of initiatives because:

- there are several valuable and worthwhile initiatives in this suite that can contribute to better regulation in the Territory including:
  - lifting regulator performance, capability and culture; and
  - streamlining overlapping regulation.
- we can leverage learnings from our work on the Commonwealth agenda for our own 'better regulation' agenda, for example:
  - our understanding of the ACT licensing landscape through our work on AMR could be used to support further reforms in this area.
- some of these initiatives apply automatically to the ACT in any case, including:
  - improving occupation mobility; and
  - modernising business communication.

As a result, the Commonwealth's Deregulation Agenda will continue to shape the ACT Government's Better Regulation forward work program. Taskforce resources will continue to be devoted to the Commonwealth Deregulation workstream as these proposals are developed and implemented.

The Taskforce already represents the ACT Government on Commonwealth State groups for improving occupational mobility, modernising business communication and reform of State and territory fundraising laws which is one of the projects identified under the workplan for streamlining overlapping regulation. Like all governments, the Commonwealth has recognised the need to review its stock of regulation over time to remove reduce barriers affecting Australia's productivity growth and competitiveness. Its most recent 'congestion busting' agenda commenced pre-COVID in 2019. However, in June 2020, the

Deregulation Taskforce was moved to the Department of Prime Minister and Cabinet renewed its deregulation agenda to “zero in on areas to assist with COVID-19 economic recovery.”<sup>28</sup>

The Commonwealth’s Deregulation Agenda:

- examines regulation from the viewpoint of business;
- focuses on regulator culture as much as the content of regulation; and
- builds on regulatory changes made as a result of COVID-19.

## Priorities

[Five priority workstreams](#) have been identified to date by the Commonwealth for this Agenda.

### Lifting regulator performance, capability, and culture

Phase One of this work program was delivered in June 2021. The centerpiece of this work is the [Regulator Performance Guide](#) which establishes the Commonwealth Government’s expectations of regulator performance and reporting via three best practice principles.

Phase two of the work program is focused on promoting and supporting regulators and policy agencies to embed the Regulator Performance Guide. This includes a refreshing of Ministerial statements of expectation and a stocktake of Australian Government regulatory functions to provide visibility of the regulatory landscape.

### Improving occupation mobility

The Automatic Mutual Recognition of Occupational Registrations (AMR) scheme removes the need for people to apply and pay for an additional registration or licence when working in another state or territory, saving them time and money.

AMR came into effect on 1 July 2021. It applied automatically in the ACT from that date. As a transitional arrangement, most of our occupational licences are temporarily exempt from AMR until 1 July 2022 as we work through a number of implementation challenges.

### Modernising business communication

This priority area focuses on identifying regulation that has not kept pace with digital communications and therefore adds a compliance cost to business. Analysis and consultation in relation statutory declarations and deeds is underway to ensure that the regulations that govern the execution of these documents are light-touch, fit for purpose, and reflect the way Australians want to engage and communicate digitally. As the Commonwealth’s *Statutory Declarations Act 1959* applies in the ACT, any amendments made to that Act because of this initiative will flow through to the ACT.

### Streamlining excise administration

This initiative is focused on streamlining the administration of excise and excise-equivalent customs duty regimes by the Australian Tax Office and Australia Border Force. A review of will be undertaken by the Commonwealth to identify ways to cut regulatory overheads for business.

### Streamlining overlapping regulation

Under this priority, the Commonwealth is looking to partner with contains practical projects to reduce unnecessary compliance costs to business when meeting ‘overlapping’ regulatory obligations between different agencies or governments.

The [ten projects](#) are intended to align with three key messages heard from business around the importance of:

- only telling governments once;

28 <https://www.pm.gov.au/media/address-%E2%80%93-ceda%E2%80%99s-state-nation-conference>

- leveraging trusted overseas standards and expertise; and
- providing one regulatory experience across the economy.

While the ACT is not yet seeking to partner with the Commonwealth on these projects, they will have significant implications for ACT businesses, for example - streamlining business registration nationally and streamlining business reporting to enable the pre-filling of business payroll tax lodgements.

The Taskforce is part of the cross-jurisdictional working group on state and territory fundraising law reforms which is one of the ten projects listed in the workplan.

## WHERE TO FROM HERE? – BETTER REGULATION AGENDA 2022-23

We have listened to business and have heard that business wants:

- government to better understand the needs and experiences of business;
- information for business to be clearer and targeted to business;
- to only tell us once;
- to know where they can go to get help and for there to be someone they can talk to who understands business;
- government to 'think small first';
- government to say 'yes' whenever we can;
- government to be transparent, coordinated and consistent; and
- streamlined, faster processes and approvals.

Considering these findings from the Discovery Phase, the Taskforce has developed an Agenda for Better Regulation for the ACT which will be implemented progressively during 2022 and 2023.

Through its Better Regulation Agenda (the Agenda), the ACT Government is putting in place the best settings for business recovery, longer term growth and regulation in the ACT. The ACT Government is making government-business interactions better, faster, and simpler through identifying and making improvements to the rules, regulations, government processes and available information and supports for business.

The Agenda will ensure that Canberra is a place where it is easy to start up and run a business. This requires that the government:

- supports regulators to create certainty for business;
- ensures consistency of information; and
- facilitates clear and open business-government communication on regulatory issues.

### Towards A Regulatory Quality Framework

Regulation that is done well can boost the economy and deliver the best outcome for ACT business, consumers, and the community at large. Sustainable better regulation that the government and the community needs and wants is achievable where there is an endorsed framework for regulatory quality. Many elements of the framework are already in place in the ACT. We have measures to manage the stock and flow of regulation and to continually improve regulator capability and culture. Over the next two years, the Taskforce will draw together these existing elements, test new ideas and co-design a co-ordinated and coherent regulatory quality architecture for consideration by Government. The draft principles for Best Practice Regulation in this report provide the starting point for this work and the Agenda provides a crucial learning and engagement opportunity to test and progress these big ideas while delivering immediate improvements for business.

The Agenda includes measures that span several directorates and agencies including Economic Development and Access Canberra. Some reforms will be delivered by the Taskforce, while others will involve delivery led by the subject matter experts in ACT directorates and agencies.

The Taskforce will retain an oversight and co-ordination role for all measures on the Agenda. Alongside the delivery of numerous measures, the Taskforce will be responsible for reporting to Government on progress against the Agenda and keeping business informed of the latest developments.

The Better Regulation Agenda is comprised of two key streams of focused Government reform action:

- 1) **Policy and Legislation** – making continual improvements to the rules, regulations, and processes; and
- 2) **Business Experience and Regulator Performance** – making government-business interactions better, faster, and simpler.

These streams will be progressed parallel so that improvements for business are delivered as quickly as possible.

## Stream 1: Policy and Legislation – Improving Rules, Regulations and Processes

Informed by jurisdictional analysis, engagements with business, and review of key legislation we will:

### Put in place a Best Practice Procurement Framework for Small and Mediums Enterprises

The ACT small and medium sized business community told us that many of the barriers and enablers to economic prosperity in the ACT are not strictly regulatory in nature but relate more generally to business-government interaction, especially around procurement.

SMEs told us they need tailored information and guidance to support them to bid for ACT Government contracts, and the ACT Government needs to ensure their processes are proportionate and not overly burdensome to support SME participation.

- ✓ **We will review procurement legislation, policies, and administrative procedures with an SME lens and bring options to Government to support a best practice procurement framework**

### Enhance Labour Mobility

Business wants to ensure that there is reciprocal recognition of licences to support occupational mobility from interstate. As a cross border community, automatic recognition of the licences of workers registered in New South Wales will reduce barriers for ACT businesses to quickly and easily onboard interstate workers.

- ✓ **We will ready the ACT for the commencement of automatic mutual recognition of occupational licensing.**

### Undertake stock management through improvements to existing frameworks

Through our engagement with business and our support of the Commonwealth Deregulation Agenda, we need to ensure that our existing frameworks are still fit for purpose. Have our laws kept pace with the way business engage with digital communications? Do our regulatory frameworks allow for new ways of doing business? Are there regulatory requirements that just no longer make sense?

This element of the Agenda identifies a number of individual reform opportunities that have been raised with the Taskforce and warrant consideration by Government.

These reforms are the first tranche of important 'stock management' measures. We continue to listen to business and regulators to identify other reform opportunities for our future work program.

- ✓ **We will develop options to improve existing regulatory arrangements for:**
  - the execution of statutory declarations and deeds
  - model rules for Incorporated Associations
  - references to outmoded payment methods (including unnecessary references to cheques) in legislation
  - ACT refresher training courses for interstate responsible service of alcohol certificate holders
  - the licensing of employment agents

## **Stock management through industry-focused review and reform – Night-time and Entertainment Economy**

The night-time/entertainment economy has been significantly impacted by COVID-19. The hospitality and entertainment sectors make a significant contribution to the ACT's economic recovery, the jobs market and the way of life of Canberrans generally.

Business has raised several concerns about how this sector is currently regulated. Noise management, an uncoordinated approach to approvals, disproportionate burdens of fees for differing scales of businesses, an overall lack of integration of policy and lack of clear information on compliance requirements are the concerns that have been raised.

- ✓ **We will comprehensively review the legislative, regulatory and administrative arrangements for 'entertainment economy', which straddles the industry sectors of accommodation and food services and arts and recreation services.**
- ✓ **We will bring options to government to better arrange regulatory frameworks for this industry, to support recovery and growth.**

## **Stream 2: Business experience and regulator performance – making government-business interactions better, faster and simpler**

Informed by engagements with business we will:

### **Better understand the experiences of business in dealing with government and simplify government-business interactions**

Business has told us that there is a lack of understanding of business needs by government and that we don't really know how much regulation actually impacts on business. We also heard the business wants government to stand in the shoes of business when thinking about regulation

- ✓ **Through the following activities, we will better understand the experiences of business in dealing with government and identify opportunities to simplify government-business interactions:**
  - Develop a survey of business sentiment to measure the quantity and quality of interactions of business with government over time.



## CABINET

- Develop options to better measure and benchmark regulatory burden.
- Map the end-to-end business user experience.
- Pilot a model for human-centred design for new regulation.

### Ensure that business will only need to “tell us once”

Businesses experience frustration when required to provide the same information to different government entities. This causes duplication for businesses in their regulatory compliance, which leads to a cumulative burden.

- ✓ **We will work iteratively to identify and act on identified opportunities to streamline processes, reduce overlap, and duplication for business.**
- ✓ **We will better use data to inform regulatory focus and protections.**

### Provide clear, targeted information and tailored support on regulation

Business needs accurate, targeted information from government which they can access how and when it suits them. Sometimes business needs more than a webpage. It needs support from government that has a human face. It needs support that is proactive, forward leaning and individualised to meet the specific challenges or opportunities for that business.

- ✓ **We will produce new and improved information resources and tools – such as infographics, fact sheets, requirement checklists and process maps – specific to business types. This will include clear information on “who’s who”, who to contact in regulatory agencies on issues and requirements to start and run a successful business.**
- ✓ **We will overhaul existing Access Canberra websites to provide clear information and an entry point for business. This will include web resources providing advice and guidance on how to start a business in the ACT.**
- ✓ **We will introduce a dedicated, proactive business support team to work through a “concierge” model one-on-one with business to educate and problem solve. This would include working with existing or new and emerging businesses to find solutions and enable innovation.**
- ✓ **We will put in place a process to make saying ‘yes’ to business ideas easier –**
  - **we will have a customer commitment to finding solutions for business by being clear on the harms and risks that set our requirements and removing barriers where we can, we will be more flexible and work with you to support innovation.**
  - **We will put in place a ‘sandbox protocol’ to empower regulators to explore innovative ideas. This may include targeted regulatory exemptions to allow for innovative products or services with appropriate requirements for managing risks and monitoring outcomes.**

INSERT INFOGRAPHIC  
OF TWO STREAMS  
HERE

# APPENDIX A – METHODOLOGY

The Taskforce has used the Discovery Phase to seek answers to its core questions by undertaking:

- Engagement with business and stakeholders;
- A wide-ranging legislative review; and
- Jurisdictional analysis.

The Taskforce also progressed the Commonwealth's deregulation reform agenda.

## Engagement

During the Discovery Phase, the Taskforce sought to identify issues emerging from regulation that place burdens on business and identify the most effective levers to use to address these.

Informed by HCD principles, the Taskforce sought to engage with a wide range of business to better understand the issues they face, and the possible solutions required.

By employing a HCD approach to consultation, the Taskforce sought to capture what is working well, locate the key pain points for different stakeholder groups, and gain an understanding of where regulatory reforms could deliver the most value.

## Engagement Principles

The Taskforce employed key engagement principles throughout its engagement. These were to:

- Engage with stakeholders in ways that suit them— by acknowledging that business owners and representatives are very busy;
- Keep stakeholders informed – by understanding engagement as a two-way process; and
- Engage respectfully – by acknowledging the valuable time and insight of stakeholders.

## Engagement Activities

The Taskforce undertook a broad program of consultation and engagement across Canberra. This included focus groups, workshops, roundtables, and one-on-ones. The Taskforce engaged with business, precinct groups, peak bodies, industry forums and government regulators to hear about issues that businesses are experiencing.

## Factsheet

A factsheet was published in March 2021 on the ACT Government website introducing the Taskforce, its role, and its immediate focus of improving regulation.

The factsheet and associated web content encouraged business to *have their say* through an open call for business to share their experiences, known barriers, and ideas for improvement with the Taskforce. A series of questions were posed to help start this conversation:

- What is the biggest issue facing your business right now?
- How has ACT regulation supported or strained your business during the COVID-19 pandemic?
- What are your interactions with the ACT Government like?
- What do we do well?
- What could we improve upon?
- Is the information and support you need to run your business in the ACT easily accessible?
- What other information would make it easier to run your business? Where would be the best place for you to access this?
- Are there government requirements on your business that are onerous, take too long or are confusing?
- How could we enhance our reputation as being the best place to do business?

- What processes, rules or regulations present barriers or hurdles to you doing business in the ACT?
- Have you experienced any duplication between Commonwealth and ACT processes?
- How could this be improved to be more aligned?
- Are there any government forms or processes that could be digitised and moved online?

The Taskforce's email and a contact number were provided so that business could reach out to the Taskforce directly.

### Workshops

The Taskforce held in person workshops to obtain a high-level understanding of key regulatory issues in the ACT. These workshops were focused on capturing the breadth of issues that represent unnecessary regulatory burden and make it hard for businesses to interact with Government.

The Taskforce targeted its workshop engagement activities on sectors that have been hardest hit by the COVID-19 pandemic, such as the entertainment/night-time economy, and sectors with the greatest potential for growth and jobs creation in the future, focusing on innovation and entrepreneurship.

The workshops conducted throughout 2021 were:

- 29 March 2021 – ACT Government Stakeholders
- 30 April 2021 – Night-time economy and entertainment sector
- 23 June 2021 – Innovation sector
- 28 July 2021 – ACT Procurement

These workshops were targeted at sophisticated small businesses, large businesses, peak bodies/industry associations, and government stakeholders. The workshops explored issues that currently impede efficient business practice or create subpar regulatory experience and how they might be addressed.

The Taskforce developed interactive agendas for these workshops to address topics of interest. Workshops were run by an expert facilitator and insights were captured around the key themes to emerge through the workshop.

#### ACT Government Stakeholders

This internal workshop introduced the Taskforce to key business areas across ACT Government. The workshop helped provide focus to the Taskforce's program of work, informed stakeholder mapping, and provided the regulator's perspective on optimising regulator efficiency and effectiveness.

#### Night-time economy and entertainment sector

As demonstrated by the economic indicators, the ACT night-time economy and entertainment sector were particularly hard hit throughout COVID-19 and continued to manage public health restrictions in 2021, while most of Canberra had returned to low or zero restrictions. Attendees comprised representatives of business peak bodies, as well as business owners and managers from the relevant sectors.

#### Innovation sector

This workshop focused on the regulatory barriers facing the innovation sector, defined as encompassing start-ups, green economy businesses, tech and cyber security businesses and higher education institutions. The workshop was developed and delivered in partnership with the Canberra Innovation Network.

#### ACT Procurement

The Taskforce with the support of Procurement ACT held a workshop focused on government procurement. The Taskforce had heard from members of the Canberra Business Chamber, Canberra Women in Business and Canberra Innovation Network that procurement was an area that the Taskforce should focus on. This workshop aimed to provide information for attendees on the current ACT Government procurement

framework and help the Taskforce better understand the challenges and opportunities in relation to ACT Government procurement and what it should focus on addressing.

In addition to this workshop, a survey was released in December 2021 by Procurement ACT to review its procurement systems, processes and engagement with industry as well as seek feedback from users on their experiences in tendering for opportunities with the ACT Government. The survey results will serve to identify future opportunities for improvement and inform future requirements for whole of government procurement systems.

## Attending existing forums

Taskforce representatives attended existing business forums, recognising the valuable time of business and going where business already were. These included the Canberra Region Tourism Leaders Forum, and member roundtables held by the Canberra Business Chamber.

## One-on-Ones

The Taskforce conducted extensive one-on-ones with a wide variety of ACT businesses and peak bodies/industry associations at times and locations that suited them best.

## Legislative Review

The Taskforce commissioned a scoping study of opportunities for legislative review to help remove regulatory burden on industry and business in the ACT. The wide-ranging legislative review to review key legislation to:

- Reduce the need for businesses to contact multiple Government agencies; and
- Ensure legislation across the ACT supports new business models to grow the digital economy.

The review also allowed for the identification of opportunities to reform legislation to ensure regulatory settings remain fit for purpose and consistent with best practice principles.

Potential review projects were identified throughout the following processes:

- Scan of the entire ACT primary legislation database;
- Jurisdictional review of recent regulatory developments in the Commonwealth, the States and New Zealand; and
- Review of the outcomes of stakeholder consultations conducted by the Taskforce.

## Jurisdictional Analysis

An extensive jurisdictional analysis was undertaken to identify previous and current reform programs and statements of best practice principles across the country and internationally. The Taskforce reviewed trends and regulatory policy to determine a criterion by which existing regulation could be considered, as well as a framework against which new regulation could be assessed.

## Alignment with, and delivery of, the Commonwealth's Deregulation Agenda

The Taskforce while progressing its work program has also been facilitating the ACT's contribution to nation-wide regulatory reforms, principally through the Council on Federal Financial Relations, through to National Cabinet.

The Taskforce represents the ACT Government across several Commonwealth working groups for a variety of regulatory reform projects. These projects include:

- Modernising Business Communications - Modernising Document Execution (MDE);
- Improving Occupational Mobility - Automatic Mutual Recognition (AMR); and
- Overlapping Regulation.

# Better Regulation Taskforce 2 Year Work Program

Policy and Legislation



Business Experience and Regulator Performance

We will manage the stock of existing regulation

**Regulator engagement will provide clear information and tailored support**

**Regulators will clearly communicate regulatory objectives & duties on business**

- Developing information resources, including websites and stand-alone toolkits, that:
  - make clear the regulatory outcomes and the harms we seek to minimise – the value of compliance;
  - explain how we are structured and who to contact;
  - Provide clear guidance on regulatory obligations, requirements and steps to start and run a successful business
  - Support business to quickly find the information they need, and the level of support that suits their circumstances.

**Government will provide tailored support to navigate barriers, requirements and find ways to say 'yes'**

- Introduce a dedicated, proactive business support team to work one-on-one with business to educate and problem solve. This would include working existing or new and emerging businesses to find solutions or enable innovation.
- We will be clear on the harms and risks that set our requirements, remove barriers where we can

**Business will only tell us once**

- The Taskforce will work iteratively to identify opportunities to streamline processes, reduce overlap and duplication for business across ACT Government.

**We will better understand the experiences of business**

- Survey of business sentiment to measure the quantity and quality of interactions of business with government.
- User experience mapping of key business personas
- Pilot a model for human-centred design for new regulation

# Better Regulation Taskforce 2 Year Work Program

## Policy and Legislation

Regulators will clearly communicate ~~regulatory objectives & duties on for~~ business

- ~~Developing~~ Improve and target information so it is relevant to business and provides: resources, including websites and stand alone toolkits, that:
  - ~~make clear the~~ regulatory outcomes and the harms we seek ~~to to be~~ minimised – the value of compliance;
  - ~~explain how we are structured and who to~~ ~~contact~~ key contacts and where to go for information and support;
  - Provide clear guidance, connections and support about ~~on~~ regulatory obligations and requirements and steps ~~to to~~ start and run a successful business;
  - ~~Support business to quickly find the~~ information they need, and the level of support that suits their circumstances. ~~opportunities to provide~~ feedback so regulators can continue to enhance information provided to business.

We will manage

### Business will only tell us once

- The Taskforce will work iteratively to identify opportunities to streamline processes, reduce overlap and duplication for business across ACT Government.
- \*What about we will better use data to inform regulatory focus and protections? reg hku

## Business Experience and Regulator Performance

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Government will provide tailored support to ~~navigate meet~~ regulatory barriers, requirements ~~(ie say 'yes')~~ and find ways to ~~remove regulatory barriers to business say~~ 'yes'

- Introduce a dedicated, proactive business support team to work one-on-one with business to educate and problem solve. This would include working with existing or new and emerging businesses to find solutions ~~or and~~ enable innovation.
- We will be clear on the harms and risks that set our requirements, remove barriers where we can and work with business with you to support innovation.

### We will better understand the experiences of business

- Survey of business sentiment to measure the quantity and quality of interactions of business with government.
- User experience mapping of key business personas
- Provide real-time feedback following proactive engagement with business to regulators and policy makers to ensure ongoing improvement and targeted business support.
- Pilot a model for human-centred design for new regulation.
- Feed back to business what we are hearing and seeing through compliance activity and engagements to support transparent engagement.

# Better Regulation Taskforce 2 Year Work Program

Policy and Legislation



Business Experience and Regulator Performance

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- User experience mapping of key business personas
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Supporting Analysis for Reform

Table A – Possible Reform Packages

- These packages are multifaceted, high impact, engage a significant number of stakeholders, resource intensive and will require further cabinet processes through development and implementation.
- The reform packages parcel various measures from Table B and Table C which have a common reform idea or theme.

| Reform Package   | Theme(s)  | Other Ministers   | Stakeholder support                       | Best Practice Principle/s | Outcomes alignment | Leg Review |
|--|---|---|---|---------------------------|--------------------|------------|
| <b>Entertainment Economy</b> <ul style="list-style-type: none"> <li>• Liquor Act review</li> <li>• Environment Protection Regulatory Framework review</li> <li>• Mapping of approvals, licences, processes</li> <li>• Events approvals</li> <li>• Lease purpose clauses</li> <li>• Overlap/duplication with Cth</li> <li>• Security agents licensing framework</li> <li>• Review of RSA &amp; RTO training requirements</li> </ul> | Continuous Improvement<br><br>Simplification of Business-Government Interactions<br><br>Regulator Practice<br><br>Small business information and communications | The most relevant are:<br><br>Chief Minister<br><br>Minister for Economic Development<br><br>Minister for Tourism<br><br>Minister for Planning and Land Management<br><br>Minister for the Environment<br><br>Attorney-General<br><br>Minister for Transport and City Services<br><br>Minister for Sustainable Building and Construction<br><br>Minister for Gaming | Wide support but a highly contested space | 3,6,7,8                   | 1,3,4a             | Project #1 |
| <b>Modernising business communications:</b> <ul style="list-style-type: none"> <li>• References to cheques</li> <li>• Review for tech neutrality</li> <li>• Modernising document execution</li> </ul>  | Continuous Improvement<br><br>Simplification of Business-Government Interactions  | Attorney-General<br><br>Treasurer<br><br>Plus relevant portfolio ministers  | Unknown                                   | 3,5,6,7,8                 | 1,3,4b             | Project #3 |

**CABINET - DLM**

| Reform Package  | Theme(s)   | Other Ministers   | Stakeholder support                                    | <a href="#">Best Practice Principle/s</a> | <a href="#">Outcomes alignment</a> | <a href="#">Leg Review</a>   |
|---|--|---|--|---|------------------------------------|------------------------------|
| <b>Best Practice Procurement Framework</b> <ul style="list-style-type: none"> <li>• Review of legislation</li> <li>• Review of policies</li> <li>• Measurement and evaluation</li> </ul>  | Programs and Support for SMES – Procurement  | Special Minister of State<br><br>Treasurer  | Wide Support   | 3,6,7                                     | 3,5                                | Project #2                   |
| <b>Improving regulator capability and performance</b> <ul style="list-style-type: none"> <li>• Introduce obligation to actively manage regulation and to produce factsheets</li> <li>• Business helpdesk/concierge</li> <li>• Regulatory powers legislation</li> </ul>  | Small business information and communications<br>Regulator Practice<br><br>Simplification of Government to Business interactions<br><br>Continuous Improvement | Regulatory powers legislations would impact on a number of ministerial portfolios | Wide Support   | 3,6,7,8                                   | 3                                  | Project #6                   |
| <b>Implementing Best Practice Regulation</b> <ul style="list-style-type: none"> <li>• Best Practice Principles and toolkit</li> <li>• Business survey</li> <li>• Measure of burden</li> <li>• Stock and flow management</li> <li>• Evaluation</li> <li>• Human centred design</li> <li>• Keeping pace with tech advancements</li> </ul> | Continuous improvement<br><br>Small business information and communications<br><br>Regulator Practice  | All ministers   | Supported  | 3,4,5,6,7,8                               | 3,4a                               | Project #6<br><br>Project #5 |
| <b>Industry specific reviews:</b> <ul style="list-style-type: none"> <li>• Motor vehicle repairers</li> <li>• Employment agents</li> <li>• ODTI</li> <li>• Incorporated Associations</li> </ul>   | Skilled Workforce  | Treasurer<br><br>Minister for Consumer Affairs<br><br>Attorney- General           | Strong support for some measures<br>Unknown for others | Various                                   | 2,3                                | N/A                          |

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Table B - Less complex measures

- Can be delivered in 2022 Estimated timeframe for delivery 3-6 months for each measure
- No further Cabinet approval required for these measures
- These measures can be pursued as stand-alone reforms or they could form part of a suite of measures for a reform package

| Measure  | Theme  | Other Ministers  | Stakeholder support | Best Practice Principle/s | Outcomes alignment | Leg Review | Reform Package                                 |
|--|--|--|---------------------|---------------------------|--------------------|------------|--|
| Business Sentiment Survey  | Regulator Practice<br>Continuous Improvement | All  | Supported by CBC    | 3, 6                      | 3, 4 a and b.      | Project #5 | Implementing best practice regulation          |
| Compliance checklist / factsheets for business   | Regulator Practice                           | Nil  | Wide support        | 5,6,7                     | 1, 3,4a.           | N/A        | Improving regulator capability and performance |
| Who does What in Access Canberra info-graphic  | Regulator Practice                           | Nil  | Supported           | 4,6,7                     | 3,4a               | N/A        | Improving regulator capability and performance |
| Review of Local Industry Participation Policy  | Programs and Support for SMES – Procurement  | Special Minister of State<br>Minister for Economic Development | Wide support        | 2,3,8                     | 3,5                | Project #2 | Best Practice Procurement Framework            |
| Review of RSA & RTO training requirements  | Continuous Improvement                       | Attorney-General   | Unknown             | 7,8                       | 3                  | Project #1 | Entertainment Economy                          |
| Review and reform process for notifying government entities of changes in club committees. | Regulator Practice<br>Continuous Improvement | Attorney-General   | Unknown             | 7,8                       | 3, 4a              | Project #1 |  |
| Model Rules for Incorporated Associations  |  |  |                     |                           |                    | N/A        | Industry specific reviews                      |

**CABINET - DLM**

**Table C - More complex measures**

- Can be delivered over 2022-2023. Timeframe for delivery generally exceeds 6 months due to complexity
- Cabinet approval may be required for some of these measures
- These measures can be pursued as stand-alone reforms or they can form part of a suite of measures for a reform package

| Measure  | Theme  | Further Cabinet Approval | Other Ministers  | Stakeholder support | Best Practice Principle/s | Outcomes alignment | Leg Review | Reform Package        |
|--|--|--------------------------|--|---------------------|---------------------------|--------------------|------------|-----------------------|
| Entertainment Economy Industry analysis - mapping approvals, licensing and reporting requirements    | Simplification of Business-Government Interactions   | Sch 1 1.6                | Multitple  | Wide Support        | 3,6,7,8                   | 3,4a,5             | Project #1 | Entertainment Economy |
| Review of the Liquor Act (and liquor licensing fees)   | Continuous Improvement<br><br>Simplification of Business-Government Interactions<br><br>Regulator Practice |                          | Multiple   | Wide Support        | 3,6,7,8                   | 3,4a,5             | Project #1 | Entertainment Economy |
| Review of the Environment Protection Regulatory Framework as it relates to regulation of noise/sound | Continuous Improvement<br><br>Simplification of Business-Government Interactions<br><br>Regulator Practice |                          | Minister for Planning and Land Management,<br><br>Minister for the Environment | Supported           | 3,7                       | 3,4a               | Project #1 | Entertainment Economy |
| Review of Lease Purpose Clauses and the planning process/costs associated with varying a LPC         | Continuous Improvement   |                          | Minister for Gaming, Minister for Planning and Land Management                 | Supported           | 3,6,7                     | 5                  | Project #1 | Entertainment Economy |
| Reviewing requirements and process for application and renewal of security agent's licence           | Simplification of Business-Government Interactions   |                          | Minister for Consumer Affairs  | Supported           | 3,6,7                     | 1,3,4a             | Project #1 | Entertainment Economy |

**CABINET - DLM**

| Measure   | Theme  | Further Cabinet Approval | Other Ministers                            | Stakeholder support           | Best Practice Principle/s | Outcomes alignment | Leg Review | Reform Package                      |
|---|--|--------------------------|--|-------------------------------|---------------------------|--------------------|------------|-------------------------------------|
| Review the events approval process including legal, regulatory requirements, fees levied by ACT Government. | Continuous Improvement<br><br>Simplification of Business-Government Interactions<br><br>Regulator Practice | Sch 1 1.6                | Minister for Planning and Land Management, | Wide Support                  | 3,6,7,8                   | 1,3,4a,5           | Project #1 | Entertainment Economy               |
| Review interactions with Commonwealth NCA requirements for events and tourism on National Land              | Simplification of Business-Government Interactions   |                          | Minister for Planning and Land Management  | Supported                     | 3,5,6,7,8                 | 4a                 | Project #1 | Entertainment Economy               |
| Removal of reference to cheques   | Continuous Improvement<br><br>Simplification of Business-Government Interactions                           |                          | Attorney-General<br><br>Treasurer          | Unknown – supported by AusPay | 6,7,8                     | 1,3                | Project #3 | Modernising Business Communications |
| Review of ACT statute book to ensure technology neutral legislation   | Continuous Improvement<br><br>Simplification of Business-Government Interactions                           |                          | All ministers                              | Unknown                       | 5                         | 4b                 | Project #3 | Modernising Business Communications |
| Modernising Document Execution (Stat decs and deeds)  | Continuous Improvement<br><br>Simplification of Business-Government Interactions                           |                          | Attorney-General                           | Unknown                       | 5                         | 4b                 | Project #3 | Modernising Business Communications |

**CABINET - DLM**

| Measure  | Theme   | Further Cabinet Approval | Other Ministers           | Stakeholder support | Best Practice Principle/s | Outcomes alignment | Leg Review | Reform Package                                 |
|--|---|--------------------------|---------------------------|---------------------|---------------------------|--------------------|------------|--|
| Review of Procurement Legislation  | Programs and Support for SMES – Procurement<br><br>Continuous Improvement | Sch 1 1.6                | Special Minister of State | Wide Support        | 3,6,7                     | 3                  | Project #2 | Best Practice Procurement Framework            |
| Review of Procurement Policies and settings.   | Programs and Support for SMES – Procurement<br><br>Continuous Improvement |                          | Special Minister of State | Wide Support        | 3,6,7                     | 3                  | Project #2 | Best Practice Procurement Framework            |
| Procurement Measurement and Evaluation .   | Programs and Support for SMES – Procurement<br><br>Continuous Improvement |                          | Special Minister of State | Supported           | 3,6,7                     | 3                  | Project #2 | Best Practice Procurement Framework            |
| Statutory process for assessing performance of regulators                                    | Regulator Practice  |                          | Multiple                  | Unknown             | 4,5,8                     | 3, 4a              | Project #6 | Improving regulator capability and performance |
| Impose an obligation on regulators to actively manage the regulatory framework (stewardship) | Regulator Practice  |                          | Multiple                  | Unknown             | 4,5                       | 3, 4a              | Project #6 | Improving regulator capability and performance |
| Impose an obligation on regulators to issue factsheets and guidelines                        | Regulator Practice  |                          | Multiple                  | Wide Support        | 6,7,8                     | 3,4a               | Project #6 | Improving regulator capability and performance |
| Introduction of a standard suite of regulatory powers  | Regulator Practice  |                          | Multiple                  | Unknown             | 4,5,6,7,8                 | 3, 4a              | Project #6 | Improving regulator capability and performance |

**CABINET - DLM**

| Measure   | Theme  | Further Cabinet Approval | Other Ministers                                    | Stakeholder support                      | Best Practice Principle/s | Outcomes alignment | Leg Review               | Reform Package                                 |
|---|--|--------------------------|--|--|---------------------------|--------------------|--------------------------|--|
| Business Helpdesk Function (concierge service and/or case manager approach)     | Small business information and communications<br><br>Simplification of Government to Business interactions | Sch 1 1.6                | All Ministers                                      | Wide Support                             | 3,6,7                     | 1,3                | Project #6               | Improving regulator capability and performance |
| Review of Employment Agent Licensing  | Continuous Improvement   |                          | Minister for Consumer Affairs                      | Unknown                                  | 3,8                       | 3                  | Project #4<br>Project #5 | Industry specific reviews                      |
| Motor Vehicle Repairers – licensing for individuals                             | Continuous improvement   |                          | Minister for Consumer Affairs                      | Unknown                                  | 3,8                       | 3                  | Project #4               | Industry specific reviews                      |
| On Demand Transport Industry – deregulation                                     | Continuous improvement   |                          | Minister for Transport and City Services           | Opposition likely from some stakeholders | 3,8                       | 3                  | N/A                      | Industry specific reviews                      |
| Construction Industry - Security of Payment for Building and Construction       | Continuous improvement   |                          | Minister for Sustainable Building and Construction | Unknown                                  | 3,8                       | 3                  | Project #4               | Industry specific reviews                      |
| Development of Best Practice Principles (and toolkit to achieve these outcomes) | Regulator Practice<br><br>Continuous improvement   |                          | All Ministers                                      | Unknown                                  | 2,6,7                     | All                | Project #6               | Implementing Best Practice Regulation          |
| Business Sentiment Survey (annual, bi annual basis)                             | Small business information and communications<br><br>Regulator practice                                    |                          | All Ministers                                      | Supported by CBC                         | 3,6,7,8                   | All                | Project #6               | Implementing Best Practice Regulation          |
| Baseline and measure existing regulatory burden on business                     | Small business information and communications<br>Regulator practice<br><br>Continuous improvement          |                          | All Ministers                                      | Supported                                | 3,6,7,8                   | All                | Project #6               | Implementing Best Practice Regulation          |

### CABINET - DLM

| Measure  | Theme   | Further Cabinet Approval | Other Ministers | Stakeholder support | Best Practice Principle/s | Outcomes alignment | Leg Review | Reform Package                        |
|--|---|--------------------------|-----------------|---------------------|---------------------------|--------------------|------------|---------------------------------------|
| Adopting the NZ approach to managing the stock and flow of regulation  | Regulator practice  | Sch 1 1.6                | All Ministers   | Unknown             |                           | All                | N/A        | Implementing Best Practice Regulation |
| Adopt human centred design approach to development of regulation.  | Regulator practice  |                          | All Ministers   | Supported           | 6,7,8                     | All                | N/A        | Implementing Best Practice Regulation |
| Evaluation of new regulation in line with best practice principles.  | Regulator practice  |                          | All Ministers   | Unknown             | 1,2,4,5,8                 | All                | N/A        | Implementing Best Practice Regulation |
| Having a leading practice where we stay ahead of technological advancements.   | Regulator practice  |                          | All Ministers   | Supported - CBRIN   | 1,2,4,5,8                 | All                | N/A        | Implementing Best Practice Regulation |
| Implement Automatic Mutual Recognition of occupational licences.   | Skilled workforce   |                          | Chief Minister  | Supported           | 3,6,7                     | 2                  | Project #4 |                                       |
| Review of ACT / NSW cross border alignment in legislation and associated regulatory practice. <sup>1</sup>                       | Simplification of Government to Business interactions<br><br>Continuous Improvement |                          | Multiple        | Wide Support        | 3,6,7,8                   | 3,4a               | Project #4 |                                       |
| Review of regulation overlap and duplication of government to business interactions. <i>Tell Us Once Principle.</i> <sup>2</sup> | Simplification of Government to Business interactions                               |                          | Multiple        | Wide Support        | 3,6,7,8                   | 1,3,4a             | Project #5 |                                       |
| High costs of insurance in Canberra - impost on business   | Continuous Improvement  |                          | Multiple        | Supported           | 3,8                       | 5                  | N/A        |                                       |

<sup>1</sup> The complexity of this measure depends on the range of legislation under review.

<sup>2</sup> The complexity of this measure depends on the range of regulation under review.



## Draft Best Practice Principles

The draft principles for making ACT regulation better are:

- 1) Commitment:
  - a. Government should commit to making better regulation.
- 2) Articulate the 'why':
  - a. Regulation should only be introduced and retained where there is a clear need for government intervention – a clear problem to be addressed or a clear outcome the government is trying to achieve.
  - b. Regulation should be principle-based and clearly articulate the underlying objectives.
- 3) Assess the impact:
  - a. As a fundamental part of the policy development for legislation and regulation, an assessment of the impact of regulation (including its impact on wellbeing), within the context of existing regulatory burden, should be undertaken.
  - b. This impact should be considered as a part of the government decision making process, including a consideration of a range of feasible policy options – including non-regulatory approaches.
  - c. The assessment should include an assessment of risk and a consideration of risk appetite and tolerance.
- 4) Be accountable:
  - a. Decisions and supporting evidence for regulation should be publicly available.
  - b. Regulator discretion should be supported by transparency and accountability measures.
- 5) Make room for leading practices:
  - a. Regulation should allow regulators and regulated entities to innovate.
  - b. Regulation should be tech-neutrality and allow for experimentation by business and regulators.
  - c. Regulators should have access to a range of compliance and enforcement tools.
- 6) Put people at the centre:
  - a. At all stages of the policy development and regulatory cycle, regular and effective consultation with stakeholders, especially regulated entities, should occur.
  - b. Human-centred design principles can be valuable to ensure regulatory systems are effective and efficient – especially to better understand overlapping, duplicated or cumulative burden.
- 7) Easy to comply:
  - a. Regulation should be in plain language.
  - b. Government systems should support seamless interactions for business.
  - c. Human support should be available for those businesses who need it.
- 8) Remain effective:
  - a. Existing regulation should be monitored and evaluated periodically to simplify, reform, modernise or consolidate.
  - b. Regulators should regularly assess their delivery approaches and impact on business.

**Taskforce Outcomes** *(as outlined in Jobs and Economic Recovery Plan and Taskforce Factsheet)*

- 1) Expanding digital service offerings of the ACT Government's public interactions and support Canberra businesses to transition to greater digital technology operations.
- 2) Improving labour mobility through automatic recognition of licences from other parts of Australia.
- 3) Identifying areas of regulatory burden through stakeholder engagement with ACT industry representative groups and businesses.
- 4) Reviewing key legislation to:
  - a. Reduce the need for businesses to contact multiple Government agencies; and
  - b. Ensure legislation across the ACT supports new business models to grow the digital economy
- 5) Removing barriers to investment in the Territory.

DRAFT

## Legislative Review Projects

| Project Number | Project Title                             | Summary of Project   | Estimate timeframe*  |
|----------------|---|--|--|
| 1              | Regulation of the 'entertainment economy' | <p><b>Review full legislative and regulatory arrangements for 'entertainment economy'.</b></p> <p>This review will consider the scope for a fundamental re-organisation of regulatory arrangements affecting the 'entertainment economy'. This area of the ACT economy straddles the ABS industry sectors:</p> <ul style="list-style-type: none"> <li>- Accommodation and food services</li> <li>- Arts and recreation services</li> </ul> <p>The review will examine legislation and regulatory practice in areas including land use, food and beverage regulation and noise control. It may consider appropriate alternatives to arrangements currently requiring prior approval.</p> <p>This project will involve extensive stakeholder consultation to identify and assess the range of issues associated with these activities.</p> | <p><b>12 months</b></p> <p>This project is expected to raise a large number of issues, requiring at least two rounds of stakeholder consultation.</p>  |
| 2              | ACT Government procurement processes      | <p><b>Standardise procurement processes across ACT Government</b></p> <p>This review will examine the scope for legislation to provide for the following specific measures:</p> <ul style="list-style-type: none"> <li>- Appropriate risk assessment and management practices and standards (including insurance requirements for contractors)</li> <li>- Obligations to provide information/feedback concerning tenders</li> <li>- Preference for local content in procurement decisions.</li> </ul> <p>The ability to impose local preference policies might be found to be limited by law or by arrangements to which the ACT is a party. Advice will be obtained on these limits before any public review is commenced.</p>  | <p><b>4-8 months</b></p> <p>Some potential for delays in review of risk assessment practices across Territory entities.</p> <p>Likelihood that local preference issue will extend time to complete review due to need for wider consultation on policy issues.</p> |

## CABINET - DLM

|   |  |  |  |
|---|--|--|--|
| <p style="text-align: center;"><b>3</b></p> | <p style="text-align: center;"><b>Technology-specific legislation</b></p>  | <p><b>General review of legislation to remove any obligations requiring use of a particular technology</b></p> <p>This project will review legislation and regulatory practices which require, or presume, communications by means of a particular technology, such as a paper-based notice or a meeting requiring personal attendance. This includes arrangements currently suspended because of the COVID-19 emergency.</p> <p>The objective is to enable full use of modern digital technology appropriate to the circumstances.</p> <p>The review will also consider whether a particular requirement can be removed or modified, weighing the burdens it imposes against its intended public policy objectives.</p>   | <p style="text-align: center;"><b>6 months</b></p> <p style="text-align: center;">Assumes no significant policy issues</p>   |
| <p style="text-align: center;"><b>4</b></p> | <p style="text-align: center;"><b>Scope for cross-border alignment</b></p> | <p><b>Review of ACT-NSW regulation cross border alignment</b></p> <p>A general review of ACT-NSW legislation and regulation to maximise cross-border alignment with NSW.</p> <p>Special focus on consistency of definitions, licensing and reporting requirements.</p> <ul style="list-style-type: none"> <li>- Review of business licensing generally and whether further opportunities for harmonisation/interstate recognition</li> <li>- Scope to be considered with reference to progress on mutual recognition arrangements in ACT.</li> </ul> <p>This will require a detailed examination of legislation and regulatory practice across both jurisdictions. This would require consideration of a wide range of policy questions where divergencies are identified.</p> <p>For a cost-effective review, this project would focus on legislation and related</p> | <p style="text-align: center;"><b>9-12 months</b></p> <p style="text-align: center;">Some potential for comparison with NSW law to raise significant policy questions, requiring wider consultation.</p> |

**CABINET - DLM**

|   |                    |  |  |
|---|--------------------|--|--|
|   |                    | <p>regulatory practice likely to have a particular impact on small business.</p> <p>The starting point for the review would be the legislation identified at Appendix 3 of the Legislative Review Report. This lists the primary legislation, but also includes subordinate legislation and other instruments made under those Acts.</p> <p>The review should also examine how this legislation is administered, as there may be divergencies in regulatory practice that do not arise out of the text of the legislation.</p>   |  |
| 5 | Regulatory overlap | <p><b>Review of regulator/regulation overlap and duplication</b></p> <p>This project would review regulator/regulation overlap and duplication to simplify business to government interactions:</p> <ul style="list-style-type: none"> <li>- Reduce 'touchpoints'</li> <li>- 'tell us once'.</li> </ul> <p>Regulatory overlaps may results either from requirements arising under legislation or by reason of regulatory practice (routine requests for information, standard forms etc).</p> <p>This review will be targeted initially at least to:</p> <ul style="list-style-type: none"> <li>- The legislation with small business impacts identified at Appendix 3 of the Legislative Review Report.</li> <li>- Any other reviews relating to licensing duplication currently in progress or under consideration by ACT directorates and agencies (including in particular any identified in the 2018 audit but not yet addressed).</li> </ul> <p>The review would undertake further consultation with business to identify any other areas where regulatory overlap may exist and where its removal will have practical benefits for business.</p> <p>The review could also consider, in appropriate cases, whether a system of</p> | <p><b>6-9 months</b></p> <p>Less likely to raise significant policy questions than project 1 or project 4.</p> |

**CABINET - DLM**

|          |                              |   |   |
|----------|------------------------------|---|---|
|          |                              | 'class' or 'negative' licensing may be adopted in preference to an existing regime requiring prior approval of a particular kind of activity.   |   |
| <b>6</b> | <b>Regulator Performance</b> | <p><b>Legislation to improve regulator performance in general</b></p> <p>Review options for legislation to support regulator best practice containing the following features:</p> <ul style="list-style-type: none"> <li>- Statutory process for assessing performance of regulators</li> <li>- Obligations on regulators to actively manage regulatory framework and advise on where it continues to be fit for purpose: 'Stewardship'</li> <li>- Obligations on regulators to issue fact sheets, guidelines etc, regarding how they will apply legislation</li> <li>- Introduction of a standard suite of regulatory powers, which may be adopted as a template, with such modifications as are required, in legislation dealing with new regulatory arrangements.</li> </ul> | <p><b>3-5 months</b></p> <p>Limited scope for significant policy issues to arise.</p> |

\*Estimated timeframes as set out in the Legislative Review Report.

**Notes:**

- For each project an approximate timeframe for completion of the review is provided.
- These estimates are based on the steps for the implementation of that project as identified in Appendix 1 of the Legislative Review Report.
- Timeframes may be extended due to additional requirements: e.g., interim decision points for Government, further consultation with external stakeholders, etc.
- The estimated duration for each project does not cover subsequent action to implement its recommendations: e.g., Government decisions, drafting of legislation, further review by Legislative Assembly Committee, systems changes required by regulatory authorities, etc.
- The main cause of differing timeframes is the extent of consultation with external stakeholders likely to be required.



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## BETTER REGULATION TASKFORCE

### BETTER REGULATION DISCOVERY REPORT

In our Update Brief in July 2021 (CMTEDD2021/3226), Sch 1 1.6

The Better Regulation Discovery Report would be delivered in the first half 2022.

The Better Regulation Discovery Report could:

- establish a publicly understood framework for reporting by the BRT on better regulation, including frequency and format;
- contextualise the work of the BRT in light of other government measures, initiatives and reforms targeted at ACT business – this will help to clarify the scope of the BRT;
- reflect the breadth of matters considered by the BRT during its discovery phase including direct business engagement, the legislation review, the Commonwealth deregulation agenda, past reviews and experiences of other jurisdictions;
- define what is meant by 'better regulation';
- highlight the work of the BRT to date, including its approach to understanding and reviewing the stock of 'regulation';
- provide an opportunity for the BRT to work with business to develop components of the report, including case studies which capture the user experience regarding 'ease of doing business' in the ACT; and
- engage all stakeholders on the reform pathways that the BRT consider should be pursued under its next phase of activity.

# Out of Scope

# Out of Scope

|            |               |
|------------|---------------|
| Cleared by | David Clapham |
|            |               |





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**BETTER REGULATION TASKFORCE**

# Out of Scope

# Out of Scope

## **DISCOVERY REPORT**

- The Taskforce is currently preparing the Discovery Phase report and we are aiming to complete and deliver this by the end of the first quarter.
- The report will cover what is meant by 'better regulation', what we have heard through the Discovery Phase, and provide reform options to government for its consideration.

# Out of Scope

Out of Scope



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## BETTER REGULATION TASKFORCE

### BETTER REGULATION REPORT

- Formal and informal comments received. The submission is being amended to reflect those.
- There is a risk that budget dependent elements will not be considered in a timely way with ERC consideration of the submission.

# Out of Scope

Out of Scope



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**BETTER REGULATION TASKFORCE – UPDATE MEETING 12 APRIL 2022**

**BETTER REGULATION REPORT**

Sch 1 1.6

Out of Scope

# Out of Scope

|            |               |
|------------|---------------|
| Cleared by | David Clapham |
| 11/4/2022  |               |



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## BETTER REGULATION TASKFORCE – UPDATE MEETING 12 APRIL 2022

### BETTER REGULATION REPORT

- The Taskforce is procuring the services of a consultant to undertake a language edit of the report and produce a summary document.
- Edits will be made in tracked changes and shared with you ahead of final

Sch 1 1.6

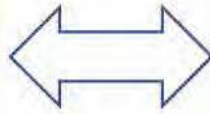
# Out of Scope

|            |               |
|------------|---------------|
| Cleared by | David Clapham |
| 06/05/2022 |               |



# Better Regulation Taskforce Work Program

## Policy and Legislation



## Business Experience and Regulator Performance

### We will put in place a best practice procurement framework for SMEs

- Review of procurement legislation, policies and administrative with an SME lens

### We will enhance labour mobility

- Ready the ACT for the commencement of automatic mutual recognition of occupational licensing.

### We will manage the stock of existing regulation

#### We will make improvements to existing frameworks

- Employment agents licensing
- Modernise the execution of statutory declarations and deeds
- Model Rules for Incorporated Associations
- Removal of references to outmoded payment methods
- Responsible service of alcohol improvements

### We will undertake industry-focussed review and reform

- review the legislative, regulatory and administrative arrangements for the nighttime/entertainment economy

### We will better understand the experiences of business

- Survey of business sentiment to measure the quantity and quality of interactions of business with government.
- User experience mapping of key business personas
- Pilot a model for human centred design for new regulation

### Business will know where to get help

- Infographic for business 'Who to contact about What?' in Access Canberra

### Information for business will be clearer

- Factsheets
- Compliance checklists
- Update existing web resources

### Business will only tell us once

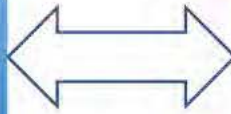
- Overlap and duplication for business across ACT Government

### We will say 'yes' whenever we can

- 'sandbox' pilot to trial new regulatory approaches

# Potential Future Reforms

## Policy and Legislation



## Business Experience and Regulator Performance

### We will manage the stock of existing regulation

- Review of ACT statute book to ensure technology neutral legislation
- Review of ACT / NSW cross border alignment in legislation and associated regulatory practice
- On Demand Transport Industry
- Security of Payments laws
- Motor Vehicle Repairers
- stewardship role for regulators and Ministers to actively manage the regulatory framework
- Better Regulation Best Practice Framework

### We will manage the flow of new regulation

- Better Regulation Best Practice Framework
- measure for assessing cumulative burden on business
- Pilot NZ Rules as Code approach to regulation

Events approvals?

Flexibility in licences renewal periods

How to start, run and grow a business web page

Insurance

### We will better understand the experiences of business

- measure of business experience with government which can be assessed over time

### We will be transparent and consistent

- statutory process for assessing performance of regulators
- standard suite of regulatory powers
- statutory obligation to issue factsheets and guidelines

### Information for business will be clearer

- Online business licence finder
- Single online portal for business to conduct all their business with government

### Business will know where to get help

- Concierge/help desk for small business to navigate compliance obligations across ACT government

### Approvals will be faster

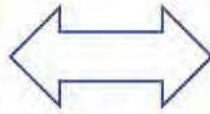
- Fast lane for small business approvals

### Business will only tell us once

- Overlap and duplication for business across ACT and Cth Government
- Creation of digital identity for business

# Better Regulation Taskforce Work Program

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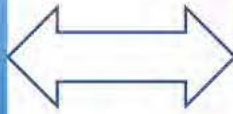
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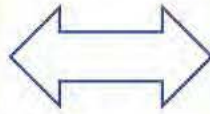
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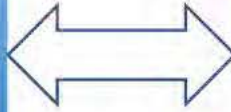
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