



**Australian Government**

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**Department of the Prime Minister and Cabinet**  
Office of Best Practice Regulation

**USER GUIDE TO  
THE AUSTRALIAN GOVERNMENT GUIDE TO  
REGULATORY IMPACT ANALYSIS**

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## About this User Guide

The *Australian Government Guide to Regulatory Impact Analysis* (Guide to Regulatory Impact Analysis) provides an overview of how to approach the task of making policy whenever regulation may be considered as a policy option. The principles in the Guide to Regulatory Impact Analysis are also useful for policy makers more generally.

The Guide to Regulatory Impact Analysis provides high-level principles for policy makers and an outline of the process for developing Regulation Impact Statements (RISs). It is intended for policy officers and anyone else involved in analysing, developing or implementing policy where regulation may be under consideration. An important point to remember is that the RIS is a departmental document. It is prepared to assist policy makers in developing and implementing policy and to inform their decisions.

This User Guide is designed to be read alongside the Guide to Regulatory Impact Analysis. It provides detail on the specifics of developing your RIS and the process of having it assessed by the Office of Best Practice Regulation (OBPR).

Among other things, this guide will help you understand the depth of analysis your RIS should include and provide helpful step-by-step advice.

Remember: help is always available from OBPR should you need it.

## Introduction

### What is regulation?

Regulation is any rule endorsed by government where there is an expectation of compliance. It includes legislation, regulations, quasi-regulations, and any other aspect of regulator behaviour that can influence or compel specific behaviour by business and the community. It also includes the requirements imposed by the Commonwealth's procurement, grants and the cost-recovery frameworks.

Regulation may exist in the form of "black letter" law (Acts of Parliament, Regulations and other formal instruments). Regulation may also exist in the form of "grey letter" law, which may include mandatory codes of practice, guidance notes, industry-government agreements and accreditation schemes.

Quasi-regulation describes those arrangements where government influences businesses to comply, but which do not form part of explicit government regulation. Quasi-regulation occurs when an industry sector takes voluntary action to self-regulate (such as through an industry code), under an assumption the Government may consider action if the industry action was not taken.

### When is a RIS required?

A RIS is required for all Cabinet submissions. This includes proposals of a minor or machinery nature and proposals with no regulatory impact on business, community organisations or individuals.

A RIS is also mandatory for any non-Cabinet decision<sup>1</sup> made by any Australian Government entity if that decision is likely to have a more than minor impact on businesses, community organisations, individuals or any combination of them.

<sup>1</sup> Such as decisions arising through correspondence with the Prime Minister, decisions made by departmental heads, and those made by statutory agencies and boards.

A RIS is *not* required for non-Cabinet decision makers if the proposal is non-regulatory or the regulatory impact is of a minor or machinery nature.

*Minor changes* do not substantially alter the existing regulatory arrangements for businesses, community organisations or individuals. A minor change may involve a small one-off cost but no ongoing costs; examples are the introduction of an online application process, an indexation arrangement, or the setting of opening and closing dates for a fishing ground.

*Machinery changes* are consequential changes required as a result of a substantive regulatory decision. There is often limited discretion available to the decision maker. The fact that some of these changes may have a significant impact does not prevent them being machinery changes. For example, a machinery change may involve legislative changes to correct errors, administrative changes (such as name changes), changes to levy rates in line with movements in the Consumer Price Index or the updating of fee or levy thresholds.

Regulation that affects individuals and businesses outside Australia is in the scope of the RIS requirements if there is also an impact in Australia. See the [Regulatory Burden Measurement framework](#) guidance note for further information.

The agency responsible for bringing the proposal to the decision maker is responsible for ensuring that all RIS requirements are met.

## The three steps of the RIS process

### Step 1: Preliminary assessment

You need to contact OBPR to confirm whether a RIS is required for any regulatory proposal and any proposal proceeding to Cabinet.

A Preliminary Assessment determines whether a proposal requires a RIS and helps to position you for a robust policy process.

It is your responsibility to initiate a Preliminary Assessment as early as possible during policy development. This allows time for OBPR to advise on the depth of analysis in the RIS before a decision is made and to provide additional information on the best possible analysis for your RIS

As soon as you have a rudimentary set of answers to the seven RIS questions (as set out in the [Government Guide to Regulatory Impact Analysis](#)), give a written summary to OBPR. The '[Is a RIS required?](#)' template form on the Department of the Prime Minister and Cabinet website will help you identify the key features of your proposal and prepare the summary, but it is not compulsory to use the form (a link to the form is in Appendix 1).

The key questions you need to answer for the Preliminary Assessment are:

- Who will be the decision maker?
- What is the policy problem?
- What are the objectives of government action?
- What policy options are available?
- What are the likely regulatory impacts of the proposal (including whether there are any market or competition impacts)?
- What are the likely regulatory costs of the proposal, including administrative, substantive compliance and delay costs, as per the Regulatory Burden Measurement framework?
- What are the key dates and timelines?

Once you have provided this information, OBPR will look to advise you within five working days whether a RIS is required. If one is required, OBPR will also advise on the depth of analysis the RIS should include.

Where time allows, OBPR can assist you by workshopping your planned policy development process and its decision points against the RIS requirements.

To help improve the efficiency of the Preliminary Assessment process, OBPR can grant a ‘carve-out’. This is a standing agreement between OBPR and an agency that removes the need for a Preliminary Assessment to be sent to OBPR for minor or machinery changes that occur regularly. See Appendix 1 for more details on carve-outs.

## Step 2: Prepare your RIS

You should start your RIS at the very beginning of the policy process to allow it to develop over time before a final decision is made. Don’t wait to know all the answers before you start drafting.

OBPR’s role is to help you develop the best possible RIS and process for your policy proposal.

### *What standard of RIS is required?*

The proportionality principle applies to Australian Government RISs. This means the depth of analysis for the seven RIS questions is proportionate to the magnitude of the proposed change and the stage in the policy development process.

Key determinants of proportionality for RISs are therefore:

- the scale, scope and gravity of the problem to be addressed;
- the nature of the proposed intervention and alternative options and their potential impacts; and
- the stage of the policy development process and type of the decision being taken.

Proposals assessed as minor or machinery will require a RIS only where the decision maker is Cabinet or one of its committees. In this case, a lower level of analysis will be sufficient because of the minor nature of both the problem and impacts. The RIS must be included in the relevant submission but is not formally assessed or published by OBPR.

Where the problem is significant in scope or scale, or government intervention has potential to impose significant impacts, a greater depth of analysis on the RIS questions is required and the RIS is subject to assessment by OBPR. It is also required to be published after a final policy decision announcement.

Note that there can be different types of ‘impacts’ to consider: direct regulatory impacts – such as the burden of compliance; and any other significant flow-on impacts, for example, on the economy, competition, society, or the environment. They may also include impacts on specific cohorts or the creation of incentives or disincentives within a market.

In addition to the significance of the problem and impacts, proportionality may vary according to the gravity of the decision being taken. Policy development may involve multiple decision points, potentially ranging from minor decisions on process or funding future work, through to major policy decisions shaping the substance of the resulting measure.

For any given decision point, the level and depth of analysis in the RIS needs to reflect the significance of the proposal and the stage of the policy process.

- For example, an in-principle decision by Cabinet to regulate; or a decision by the Government to announce regulation in a particular form (such as announcing an intention to legislate), but to consult on the detail of the final regulation, should be informed by a detailed RIS that has completed at a minimum the first four RIS questions and provided an outline of the consultation plan. This would also apply to other major substantive decisions such as precluding one or more options from further consideration.
- However, a decision to consult on a set of policy alternatives without advocating a specific policy direction may be informed by a less detailed examination of the first four RIS questions, as well as possibly identifying information gaps and soliciting stakeholder views.

Examples of how the proportionality principle would apply in commonly encountered situations are shown in the table below.

Nature of proposal (as confirmed by OBPR)	Decision maker	RIS requirement	Examples
Proposal is machinery, or non-regulatory	Non-Cabinet (e.g. Minister or statutory decision maker)	RIS not required.	<ul style="list-style-type: none"> <li>• Appointment to a board</li> <li>• Time extension to an existing program</li> <li>• Minor amendments to an instrument to clarify the existing requirement</li> </ul>
	Cabinet	RIS required – can be a short statement in the impacts table of the submission. (See Appendix 2 for a template)	
Proposal likely to have minor impacts, but appropriate for decision maker to have some understanding of impacts (e.g. who will be affected and how)	Non-Cabinet (e.g. Minister or statutory decision maker)	RIS not required.	<ul style="list-style-type: none"> <li>• Significant streamlining of processes through digitisation, to reduce regulatory burden</li> <li>• Measure is low risk but expected to have small and contained impacts on identifiable cohorts</li> </ul>
	Cabinet	RIS required – analysis to be provided as separate attachment to the submission. (See Appendix 2 for a template)	
Proposal likely to have significant impacts (more than minor or machinery)	Both non-Cabinet and Cabinet	<p>RIS required – in depth analysis that:</p> <ul style="list-style-type: none"> <li>– addresses the 7 RIS questions (for final policy decision); or</li> <li>– addresses at a minimum the first 4 RIS questions and consultation plan (for earlier major policy decision that is subject to further consultation or decisions).</li> </ul> <p>RIS assessed by OBPR and published after announcement of a final policy decision. (A PIR needs to be completed within five years following the implementation of a regulation that has been assessed by OBPR as having a substantial or widespread impact on the Australian economy.)</p>	<ul style="list-style-type: none"> <li>• Significant intervention in a market</li> <li>• Measure likely to impose significant burden on a sector or cohort</li> <li>• Measure could have significant second order impacts that require analysis (e.g. economic, social, competition, or potential to create undesirable incentives)</li> <li>• New regulatory scheme where none has existed</li> </ul>

When providing its Preliminary Assessment, OBPR will advise on the depth of analysis required, depending on the context and its assessment of the key determinants described above.

In its consideration of the problem, impacts and stage of the policy development process, OBPR will take into account a broad range of factors. These may include, but are not limited to:

- the level of difference the proposed intervention represents from the status quo;
- the number of entities impacted and the degree to which each entity is affected;
- the level of stakeholder interest and degree to which the policy issue is contested;
- whether the proposal is likely to limit future options or opportunities;
- distributional impacts; and
- the levels of risk involved.

#### *RISs subject to assessment and publishing (more than minor or machinery)*

Where the RIS is prepared for a proposal that is more than minor or machinery:

- Where possible, the RIS should be submitted to OBPR for an Early Assessment (see below) before any major policy decision is made<sup>2</sup>. This allows OBPR to give you a view on whether the depth of analysis in your RIS is sufficient for the decision about to be made and/or as a basis for consultation.
- Your RIS needs to pass through a Final Assessment before a final decision is reached.
- Consultation will vary according to your issue and policy process but is mandatory before a final decision occurs.

#### *When does OBPR assess the RIS?*

OBPR provides an Early Assessment and a Final Assessment. These formal assessments are undertaken only after your RIS has been certified by your secretary, deputy secretary, chief executive or other delegate<sup>3</sup> (whoever is relevant to the proposal).<sup>4</sup>

OBPR can also offer advice on preparing your RIS at any stage of the RIS process, including advice on the quality of early drafts of your RIS outside the formal assessment process.

#### *Early Assessment*

OBPR can provide an Early Assessment once you have completed the first four RIS questions (including costing the regulatory burden in the impact analysis), planned your consultations, and had your RIS certified by your secretary, deputy secretary, chief executive or other delegate.

<sup>2</sup> Major policy decision points include: an in-principle decision to regulate; a decision by the government to consult on a proposal that may lead to regulatory change; a decision by the government to announce regulation in a particular form (such as announcing an intention to legislate), but to consult on the detail of the final regulation; a decision to preclude one or more options from further consideration; and a final decision on the proposal.

<sup>3</sup> Portfolios may develop their own policy regarding who can certify or sign-off a RIS. Where this option is exercised, the policy (certified by the deputy secretary) needs to be submitted to OBPR for publication on its website. The document needs to contain a process detailing the mechanism by which the policy can be changed or amended.

<sup>4</sup> A [template certification letter](#) is available from OBPR.



Your RIS certification letter needs to explicitly reference offsetting regulatory savings for any net increase in regulatory costs in your RIS, or alternatively, where it is not possible to identify offsets, outline the process undertaken in attempting to find offsets.

For Cabinet submissions, the RIS provided to OBPR for an Early Assessment must also be accompanied by a one page executive summary of the RIS.<sup>5</sup> The purpose of the RIS summary is to provide Cabinet with an assessment of the impact since the full RIS is typically only made available to Cabinet on request.

OBPR will then assess your RIS (and RIS summary where required) for adequacy against the proportionality principle and on how well you have answered the RIS questions and followed the Guide to Regulatory Impact Analysis requirements.

At the Early Assessment stage, the focus will be on the first four RIS questions, and whether your RIS contains an appropriate plan for consultation, including an explanation of the purpose and objectives of consultation.

Following this assessment, OBPR will write to tell you whether you have met the RIS requirements and whether the RIS is suitable as a basis for consultation or for a decision. Alternatively, OBPR will advise on the areas that need to be addressed for the RIS to provide the requisite depth of analysis, proportionate to the problem, impacts and stage of the policy development process. OBPR will also provide direction for the development of your RIS before the Final Assessment.

OBPR also provides its assessment of the quality of the RIS in its coordination comment. The comment includes OBPR's view on what would be good practice for the RIS, taking into account the problem, impacts and stage of policy process.

When an Early Assessment RIS proceeds to the decision maker, your RIS and OBPR's assessment needs to be included with documents provided to the decision maker. Where Cabinet is the decision maker, a one page executive summary of your RIS also needs to be included in the Cabinet submission<sup>6</sup>.

### *Final Assessment: the two-pass process*

A final policy decision always needs to be accompanied by a RIS that has been through a Final Assessment. Where Cabinet is the final decision maker, a one page executive summary of the RIS needs to accompany the final policy decision, with the full RIS available to Ministers on request.

The Final Assessment of the RIS is a two-pass process, as described in the Guide to Regulatory Impact Analysis. It is up to you to decide when a Final Assessment is undertaken, although all seven RIS questions need to be answered in full before this can happen.

In the first pass, OBPR comments on whether your RIS (and RIS summary) is consistent with the Government's requirements, sufficiently addresses all seven RIS questions and provides an accurate description of the status of the RIS at each previous major decision point in the proposal's development<sup>7</sup>.

<sup>5</sup> A template for preparing the one page RIS summary is available in the Cabinet submission template.

<sup>6</sup> Only the one page summary of the RIS is attached to the final Cabinet submission; the full RIS is available to Ministers on request. Note that the full RIS must be circulated for coordination comments.

<sup>7</sup> For example, if a decision to announce regulation in a particular form but to consult on the detail of the final regulation was informed by a RIS that had not been assessed by OBPR prior to that decision, the RIS for Final Assessment needs to contain a statement acknowledging this.

OBPR provides formal written advice to you. You then have an opportunity to revise the RIS in response to OBPR's assessment.

There is no limit on the time your agency may take to revise a RIS after receiving initial advice from OBPR, and no restriction on the number of times you can discuss a RIS with OBPR before submitting the RIS for the second pass.

For the second pass, OBPR relies heavily on the certification by your secretary, deputy secretary, chief executive or other delegate in determining the adequacy of the RIS (including the RIS summary), provided the certification letter directly addresses in detail OBPR's written comments at the first pass. OBPR will also provide its assessment, after which the RIS can proceed to the decision maker. Your second-pass certification letter should explicitly reference offsetting regulatory savings for any net increase in regulatory costs in your RIS, or alternatively, where it is not possible to identify offsets, outline the process undertaken in attempting to find offsets. While a requirement of the certification letter, OBPR does not assess the merits of offset statements.

If OBPR assesses that your RIS is insufficient, you can nevertheless choose to bring forward the proposal for decision by the decision maker. OBPR will give you written advice of its assessment, including reasons.

If the proposal proceeds to the decision maker after the second pass, your RIS, a one page executive summary of the RIS and OBPR's assessment must be included with the documents provided to the decision maker<sup>8</sup>.

When a final decision is announced, the RIS provided to the decision maker will be published on the [RIS updates](#) website, together with your second pass certification letter and written advice from OBPR setting out the status of the RIS.

RISs used to inform a Cabinet decision (where that is not the final decision) that have not been subject to a Final Assessment by OBPR prior to a final decision will be published following an announcement of the final decision. In publishing the RIS in these circumstances, OBPR will outline the depth of analysis recommended for the proposal, while noting that the agency's process is insufficient. In these circumstances, a [post-implementation review](#) will also be required to be completed within two years of implementation of the proposal.

Note, RISs prepared for Cabinet decisions which are minor or machinery are not subject to the formal assessment process described above, and are not published.

### *How does OBPR assess your RIS?*

OBPR formally assesses your RIS against the principles for Australian Government policy makers and the adequacy with which you have addressed the seven RIS questions.

There are two elements to this assessment: the quality of analysis contained in the RIS; and the quality of the process associated with its development.

<sup>8</sup> For Cabinet proposals, only the one page summary of the RIS approved by OBPR is attached to the final submission; the full RIS is available to Ministers on request. Note that the full RIS must be circulated for coordination comments.

OBPR categorises its assessment into the following tiers:

Assessment Tier	Description
Insufficient	A RIS assessed as insufficient means the process and analysis contained in a RIS is of poor quality and should not be used as a basis for decision-making. An insufficient RIS triggers a requirement for a post-implementation review to be completed within two years of implementation.
Adequate	Adequate means the RIS is sufficient for a decision, but contains a number of shortcomings in its analysis and/or the policy development process used to underpin the analysis, such as not conducting a reasonable level of consultation.
Good practice	A RIS assessed as good practice contains an overall good quality analysis addressing the seven RIS questions and following an appropriate policy development process commensurate with the significance of the problem and magnitude of the proposed intervention. A good practice RIS may contain a small number of elements where the quality of analysis or the process followed were not of exceptional quality and could have been improved.
Exemplary practice	Exemplary practice RISs contain exceptionally high quality analysis for each of the seven RIS questions, and the process followed in developing the proposed policy and the RIS were exceptional. Policy makers should aim to produce exemplary practice RISs.

In reaching its assessment, OBPR first looks at the quality of analysis contained in the RIS, and then assesses the quality of the process undertaken.

You should aim to have the highest possible quality of RIS. The *Guide to Regulatory Impact Analysis* will assist you with this task.

In assessing the quality of the RIS, and examining whether you have sufficiently addressed the RIS questions, OBPR considers the following:

- Does your RIS simply and clearly explain the problem and your objective?
- Does it examine a range of viable, genuine policy options, including non-regulatory and options put forward during consultations?
- Where the policy problem and circumstances are such that there are fewer than three options feasible for consideration, does your RIS include a clear explanation why other alternatives are not viable or practical?
- Have the benefits and costs of all the proposed options for business, community organisations and individuals been clearly analysed in a balanced and objective manner?
- Are the regulatory costs quantified?
- Does your RIS show how any significant impacts of the options will be distributed across the community, including where relevant, on gender, age, Indigeneity, disabled, regions and small business?
- Does it demonstrate meaningful consultation has been undertaken and that the views of affected stakeholder groups have been considered?

- Does it recommend the option with the highest net benefit?
- Does it have a clear implementation and evaluation plan?

In considering the quality of the process, OBPR considers the following:

- Was the appropriate type and duration of consultation undertaken?
- Was a one page RIS executive summary provided to OBPR? Was it an accurate reflection of the underlying analysis in the RIS?
- Was a RIS, assessed by OBPR, provided to the decision maker prior to each major decision point?
- Was the RIS certified by the secretary, deputy secretary or chief executive (or delegate) before formal OBPR assessment?
- Where net regulatory costs have increased, did the RIS certification letter identify offsetting regulatory savings? Alternatively, if no offsets are identified, was there a description of the process undertaken in attempting to find offsets?
- Where the policy problem and circumstances are such that there are fewer than three options feasible for consideration, did the secretary, deputy secretary or chief executive (or delegate) explicitly state this in the certification letter? Was this also discussed in the RIS?

OBPR may also make a retrospective assessment that the RIS process is insufficient if approval to publish the RIS is not granted at the earliest opportunity following an announcement of a decision.

Assessment of the process can only move the analysis assessment lower. For example, an exemplary level of analysis could be dragged down if the policy making and RIS process were poor. Whereas an exemplary process would not improve the overall assessment of a RIS that contained an analysis rated as merely adequate.

#### *What happens if your RIS does not meet good practice?*

If your RIS does not meet at least a good practice level of assessment, OBPR's assessment will provide direction on how your RIS can be improved to meet good practice. You should try to address OBPR's concerns if that is practical. For its part, OBPR will identify and communicate the reasons for the RIS not meeting good practice through a range of methods, such as:

- meeting with, or writing to you, to discuss areas of concern and suggested remedies;
- briefing the Prime Minister or the Assistant Minister to the Prime Minister and Cabinet on areas of concern;
- briefing Cabinet, through coordination comment, on areas of concern;

- publishing information on areas of concern in OBPR’s assessment; and
- assessing the RIS as insufficient, communicating this to you in writing and publishing that information, including the requirement to undertake a post-implementation review, on the [RIS updates](#) website.

### *Assessment of Insufficiency*

A poor quality RIS and/or process may lead to an assessment that the RIS is insufficient for a final decision. Instances of a poor quality RIS or process would include:

- making a final decision to regulate without a RIS that has been the subject of an OBPR Final Assessment;
- not considering at least three policy options in the RIS (including the mandatory non-regulatory option) in circumstances where the deputy secretary (or delegate) has not certified that the policy problem and circumstances are such that there are fewer than three options feasible for consideration;
- insufficiently articulating why the option with the highest net benefit has not been selected as the preferred option;
- not conducting an appropriate form of consultation as part of the RIS process;
- not sufficiently addressing the seven RIS questions; or
- not sufficiently describing the RIS status at each major decision point of policy development.

An assessment of insufficiency triggers the requirement for a post-implementation review to be completed within two years of implementation.

An assessment of insufficiency may also result where approval to publish the RIS is not provided by your agency at the earliest opportunity following the announcement of the final decision. However, as long as the RIS is subsequently published, this will not trigger a requirement to undertake a post-implementation review.

### *Portfolio cost and offsetting requirements*

All proposals subject to a RIS need to quantify the regulatory costs to business, community organisations and/or individuals. Any increases in regulatory costs should be offset. Your Deregulation contact can help you identify opportunities to offset regulatory costs. All regulatory costs and associated offsets must be quantified using the Regulatory Burden Measurement framework.

The *Regulatory Burden Measurement framework* guidance note contains further details on costing requirements.

### Step 3: Ensuring transparency

Transparency is one of the main purposes of regulatory impact analysis. The publication of RISs and information about their adequacy is critical to transparency.

#### *When does a RIS need to be published?*

Upon announcement of a final decision, the RIS provided to the decision maker for the final decision will be published on the [RIS updates](#) website, together with your second pass certification letter and written advice from OBPR setting out the status of the RIS. Independent Reviews (and additional supporting analysis where relevant) are published with the certification letter following announcement of a final decision.

OBPR will obtain your agency's approval prior to publishing the RIS. In practice, OBPR will seek to publish the RIS on its website as soon as practicable after a final decision is publicly announced (for example, by media release, or tabling of legislation in Parliament).

OBPR will make clear on its website if no RIS is prepared or if a RIS published elsewhere (such as in explanatory memorandums or statements) does not match the RIS assessed by OBPR.

Where a draft RIS that has not been assessed by OBPR is used to inform a major non-final Cabinet decision, it is required to be finalised and assessed by OBPR prior to a final decision. If it is not finalised and assessed prior to a final decision, OBPR will publish the RIS that was provided to decision makers earlier in the process and label that process as insufficient.

OBPR also publishes any Prime Minister's exemptions, including the applicable criteria. Agencies will not attract an insufficient assessment when a Prime Minister's exemption is granted.

If a decision to regulate results in legislation, the fact that the RIS was subject to a Prime Minister's exemption needs to be noted in the explanatory material.

#### *Where does the RIS need to be published?*

RISs (or their equivalent)<sup>9</sup>, certification letters and OBPR's assessments of those RISs will be published on the [RIS updates](#) website on the announcement of the final policy decision.

Where a regulation is tabled in Parliament, your RIS, as assessed by OBPR, needs to be included in the explanatory memorandum (for primary legislation) or the explanatory statement (for legislative instruments).

RISs for treaties must be tabled along with the final text of the treaty and the national interest analysis.

#### *Is there scope to amend the RIS prior to publication?*

Except in very limited circumstances, the RIS submitted to OBPR for Final Assessment and subsequently provided to the decision maker will be published under the transparency requirements. It cannot be changed even where the information may have effects on the market or market stability.

Remember, your RIS is not an advocacy document. It informs a decision maker by providing an objective assessment of the impacts of various options to address an identified problem. Making public the various options, and commensurate impacts, considered by a decision maker is an important aspect of transparency. The published RIS should reflect the analysis that was before the decision maker when they made their

<sup>9</sup> For example, Independent Reviews.

decision, and as such should not be amended following a final decision to support or justify the decision taken.

However, some limited scope exists to modify a RIS after the decision maker's consideration but before publication:

- where the RIS refers to commercial-in-confidence or national security information;
- to correct minor typographical or formatting errors, but without substantially changing the meaning or analysis in the RIS;
- to include additional relevant information that does not substantially alter the analysis in the RIS (for example, additional information about consultation processes or extra details of future reviews of the regulation); or
- to update the regulatory impacts, where the proposal was modified by the decision maker.

All such changes must be approved by OBPR before publication. A failure to seek OBPR approval of changes prior to publication will lead to the agency's RIS being reported on the [RIS updates](#) website as insufficient.

#### ***Amending offsets following the announcement of a decision***

There are sometimes instances where Ministers or agencies may have identified offsets in the RIS at the time of the decision but might not want to publish the regulatory offsets at the same time that the RIS is published (for example, if a decision on the policy proposal is made before the offset is finalised or the decision maker does not agree with the offset).

Where offsets are provided by portfolios at the time of the decision, there is flexibility about the publication of those offsets. This includes:

- removing the offset from the RIS and replacing it with advice that an offset was provided but is yet to be agreed
- presenting the estimated offset, but without supporting information to identify the offset, in order to give a broad magnitude of the offset
- publishing all details about the offset, but noting that they are preliminary and subject to further refinement.

Placing the discussion of the offsets in a separate section of the RIS allows easy removal or updating following an announcement of a decision.

### *Does the RIS need to be included in the Explanatory Memorandum or Statement?*

By default, where a regulation is tabled in Parliament, the RIS needs to be included in full in the explanatory memorandum or statement, regardless of whether the RIS has already been published on the RIS updates website. This requirement only applies to RISs that are more than minor or machinery in nature. RISs prepared for Cabinet submissions where there are nil or minor regulatory impacts, or the impacts are machinery in nature, are not required to be included in explanatory memorandums or statements.

There may be certain circumstances where publishing the RIS in the explanatory memorandum or statement is impractical, such as where the RIS (or Independent Review):

- has been tabled in Parliament previously, and a stable web link to the document is available; or
- is exceptionally long and would impose an unreasonable cost – in this case a summary of the document (for example, the executive summary) may be published instead in the explanatory memorandum or statement.

You must seek OBPR agreement to the exceptions above prior to seeking Ministerial approval of the Parliamentary Bill.

Failure to publish the RIS in full in the explanatory memorandum or statement without the agreement of OBPR will lead to an agency being reported on the RIS updates website as insufficient.

### *Reporting of compliance*

OBPR monitors regulations tabled in parliament, news reports, media releases and other sources for indications that a regulatory decision has been made. Where it appears that a regulation may have been introduced, amended or removed before a RIS was completed, it contacts the agency in the first instance to obtain additional information. After consultation with the agency, OBPR determines one of the following:

- the RIS requirements have been met and no further action is required;
- the process used to prepare a RIS was in some way inconsistent with the RIS requirements (the reason for this determination will be published as part of OBPR's assessment advice); or
- the requirement to prepare a RIS has not been met and the agency needs to undertake a post-implementation review (in addition, the agency will be reported as insufficient).

If OBPR confirms that a decision on a policy proposal was made without the appropriate level of supporting analysis, it will report that on its website.

An agency's RIS process may be deemed insufficient in Step 3 (Ensuring transparency) if it does not provide approval to OBPR for publishing the RIS as soon as practicable after a final decision is made. An insufficient assessment at this stage is reported on the [RIS updates](#) website, but it does not trigger a requirement to complete a post-implementation review.



### *Web accessibility*

RISs and post-implementation reviews supplied to OBPR for publication on the RIS updates website must conform to the [Web Content Accessibility Guidelines 2.0 \(WCAG\)](#).

The Australian Government, together with state and territory governments, has endorsed the guidelines for all government websites. This means that all documents published online by Australian governments must conform to the standards specified in the WCAG.

For RISs and post-implementation reviews, certain formatting and style conventions must be observed, and any PDF documents must be published in at least one alternative format, such as rich-text format or HTML. If your document contains charts and tables, you may have to do additional work and you should build that into your timeframes.

Agencies that take too long to provide web accessible versions of the RIS for publication may attract a negative comment from OBPR or an 'insufficient' assessment. Therefore, you should liaise with your web services team before drafting the RIS to ensure that the guidelines are met.

More information on making content accessible can be found at: [Making content accessible](#).

### **Assistance**

If you have any questions about the RIS process, email OBPR at [helpdesk-OBPR@pmc.gov.au](mailto:helpdesk-OBPR@pmc.gov.au) or call (02) 6271 6270.

Further information and guidance material on the RIS process can be found [here](#).

## Appendix 1: Other guidance material available

Further guidance material is available on the following aspects of the RIS process.

### 'Is a RIS required?'

An agency is required to contact OBPR to seek advice on whether a RIS is required for an Australian Government regulatory proposal—this is known as a Preliminary Assessment. The 'Is a RIS required' form will help you identify the key features of your proposal, which, in turn, will allow OBPR to quickly assess whether a RIS is required.

More information on the Preliminary Assessment process is available in the ['Is a RIS required?' form](#).

### Regulation Impact Statement Policy Options

When preparing a RIS, Australian Government agencies must consider a range of viable policy options. The number of options included in the analysis should take into account the magnitude of the policy problem being considered. The RIS should consider all practical policy alternatives that can be implemented to achieve the policy objective and address the identified problem.

A RIS needs to include at least three options unless the agency certifies in the RIS that the policy problem and circumstances are such that fewer than three options are feasible for consideration. For election commitments and international agreements, a RIS can have fewer than three options.

More information on the number of policy options that need to be considered in a RIS is available in the [Regulation Impact Statement Policy Options guidance note](#).

### Carve-outs

OBPR is responsible for advising government agencies on whether RISs are required. To make this process more efficient, OBPR grants 'carve-outs'.

A carve-out is a standing agreement between OBPR and an agency that removes the need for a Preliminary Assessment to be sent to OBPR for minor or machinery changes that occur regularly. This reduces the workload for both parties while ensuring consistent advice on whether or not a RIS is required.

More information on carve-outs is available in the [Carve-outs guidance note](#).

### Best practice consultation

The *Best practice consultation* guidance note contains more detail on the application of the whole-of-government consultation principles outlined in the *Australian Government Guide to Regulatory Impact Analysis* and highlights the importance of developing a consultation strategy for policy proposals.

More information on the Government's consultation principles is available in the [Best practice consultation guidance note](#).

### Regulatory Burden Measurement framework

All proposals need to quantify the regulatory costs to business, community organisations and/or individuals and should endeavour to identify offsets using the Regulatory Burden Measurement framework.

Further information on how to quantify the administrative costs, substantive compliance costs and delay costs to business, community organisations and to individuals is available in the [Regulatory Burden Measurement framework guidance note](#).

## Regulatory Burden Measure

You can use the [Regulatory Burden Measure](#) (RBM) to quantify the regulatory costs for your proposal. The RBM has associated documentation to help you understand each section of the measure and what information is required.

## Individuals

The trigger for preparing a RIS captures the impacts on individuals, reflecting the significant regulatory burden experienced by individuals and the Government's objective of reducing it.

The [Individuals guidance note](#) helps agencies to understand when a RIS may be required for proposals that affect individuals and provide guidance on how to quantify the regulatory costs on individuals.

## Small Business

The [Small Business guidance note](#) describes the factors unique to small business that should be considered when undertaking a regulatory impact analysis. It expands on the Guide to Regulatory Impact Analysis by providing policy makers with principles to consider in developing policy that affects small business.

## Community organisations

Because community organisations function in different ways from commercial businesses, they should be considered separately when assessing the impact of a proposal. OBPR's [Community organisations guidance note](#) aims to help agencies gain a better understanding of the types of issues they should be considering if they are proposing a regulatory change that may affect community organisations. This will help to ensure that those impacts are recognised early in the policy process and discussed thoroughly in the RIS, where appropriate.

## Competition and regulation

RISs for policy proposals that restrict competition are required to demonstrate that the benefits to the community outweigh the costs, and that there are no alternative means of achieving the same objective without restricting competition. The [Competition and regulation guidance note](#) outlines how OBPR assesses whether a proposal restricts competition, and how such a proposal would be justified in the RIS.

## Commonwealth programmes

Red tape burden imposed by the Commonwealth's procurement, grants and cost recovery frameworks is included in the definition of regulation.

The [Commonwealth programmes guidance note](#) provides additional information to help agencies understand when a RIS is required for government benefits, grants, procurement and cost recovery proposals and how to quantify the regulatory costs of those proposals.

## Cost-benefit analysis

The Australian Government is committed to the use of cost-benefit analysis to assess regulatory proposals and encourage better decision making. A cost-benefit analysis involves a systematic evaluation of the impacts of a proposal, accounting for all the effects on the community and economy—not just the immediate or direct effects, financial effects or effects on one group. It emphasises valuing the gains and losses from a regulatory proposal in monetary terms as far as possible.

More information on conducting a cost–benefit analysis is available in the [Cost–benefit analysis guidance note](#).

### Risk analysis in RISs

Government regulation rarely deals with certainties, but is often designed to reduce the likelihood of harmful or hazardous events occurring.

Given the importance of risk-related regulation, OBPR has prepared a guidance note on approaches to evaluating regulation aimed at managing risks. An effective approach to risk management requires that agencies develop a thorough understanding of the risks they are seeking to manage. This can be achieved by soundly applying risk analysis and economic evaluation principles.

More information on dealing with risk in RISs is available in the [Risk analysis in Regulation Impact Statements guidance note](#).

### Trade impact assessments

If a policy proposal has a direct bearing on trade performance, a trade impact assessment should be incorporated into the impact analysis of the preferred option in the RIS. The assessment should summarise the impact of regulatory options and proposals on exporters and importers and assess the overall impact on Australia’s international trade. OBPR’s [Trade impact assessments guidance note](#) provides more detailed information on how to complete an assessment.

### Environmental valuation

Analyses of proposals that significantly affect environmental assets should take into account the benefits that those assets provide to the community.

OBPR has developed a framework to analyse how decisions can affect environmental assets and the benefits they provide. While the framework is broadly applicable, its main aim is to inform the development of RISs.

More information can be found in the [Environmental evaluation guidance note](#).

### Distributional analysis

Decision makers are often concerned about the distributional impacts of projects and policies. Distributional analysis is an important supplementary step to provide decision makers important information about the overall outcomes for the community.

More information on conducting a distributional analysis is available in the [Distributional Analysis guidance note](#).

### Independent reviews and RIS-like processes

If an independent review or other RIS-like process has been undertaken by a department, agency, statutory authority, or board that results in analysis equivalent to a RIS, this analysis can substitute for the RIS. Independent reviews and RIS-like processes will be assessed by OBPR for relevance to the recommended option(s).

OBPR has prepared the guidance note [Independent reviews, RIS-like processes and the RIS Requirements](#) to help agencies understand the use of independent reviews and RIS-like processes, and OBPR’s assessment of relevance.

## Sunseting legislative instruments

Under the *Legislative Instruments Act 2003*, all legislative instruments ‘sunset’, or cease automatically, after 10 years, unless action is taken to remake them or they are otherwise exempt. Some instruments may have impacts on business, community organisations or individuals, so changes to their future operation fall within the scope of the RIS requirements. However, some streamlined administrative processes apply to sunseting instruments and a RIS may not need to be prepared in all circumstances.

More information can be found in the [Sunsetting legislative instruments guidance note](#).

## Post-implementation reviews

PIRs need to be prepared when regulation has been introduced, removed, or significantly changed without a RIS. This may be because a RIS was not prepared for the final decision, or because the Prime Minister granted an exemption from the RIS requirements. Where a RIS for the regulatory change was *not* prepared for the final decision or was assessed by OBPR as insufficient, a PIR needs to be completed within two years of the regulation being implemented.

For regulations assessed by OBPR as having a substantial or widespread impact on the Australian economy, a PIR needs to be completed and signed off by OBPR within five years following the implementation of the regulation.

More information can be found in the [Post-implementation reviews guidance note](#).

## Appendix 2: – RIS templates for non-regulatory, minor or machinery Cabinet proposals

RISs are required for all Cabinet submissions (including committees of Cabinet, such as ERC). The following describes the requirements for proposals where Cabinet is the decision maker and which have been assessed by OBPR as non-regulatory, having minor regulatory impacts or as being machinery in nature.

### Non-regulatory or machinery proposals

Where Cabinet is the decision maker for a proposal that has been assessed by OBPR as having a non-regulatory or machinery impact, the RIS requirements can be met by simply including the following in the New Policy Proposal (NPP) or Cabinet submission Impacts table:

#### Regulatory Impact:

This proposal is [non-regulatory/machinery in nature] and has zero regulatory cost.

### Minor regulatory proposals

RISs for proposals with minor regulatory impacts (as assessed by OBPR) should include:

- a summary of the proposed policy and any options considered
- an overview of likely impacts
- an outline of regulatory costs.

The following RIS template should be used for minor regulatory proposals. The completed template should be included in the NPP, or as a separate attachment to the Cabinet Submission.

#### Regulation Impact Statement

Name of department/agency:

OBPR Reference number:

Name of proposal:

Summary of the proposed policy and any options considered:

What are the regulatory impacts associated with this proposal? *Explain.*

What are the regulatory costs/savings associated with this proposal? *Explain and quantify.*

Have offsets been identified for increases in regulatory costs? If not, why?

#### Regulatory burden estimate (RBE) table

##### Average annual regulatory costs (from business as usual)

Change in costs (\$ million)	Business	Community organisations	Individuals	Total change in cost
Total, by sector	\$	\$	\$	\$

## Minor Regulatory Proposal Example

### Regulation Impact Statement

Name of department/agency: *Department of C*

OBPR Reference Number: *11111*

Name of proposal: *Proposal F*

Summary of the proposed policy and any options considered:

*The proposed policy is to introduce simplified reporting requirements for a grant programme for Group G. Option H, to simplify reporting requirements for a subset of the grants, was also considered. However, that option was not progressed further due to feedback received from stakeholders that the option could be extended to the full range of grants.*

What are the regulatory impacts associated with this proposal? Explain.

*The programme does not impose any additional regulatory burden on Group G. The proposal aims to simplify reporting for members of Group G who choose to participate in the programme.*

What are the regulatory costs/savings associated with this proposal? Explain and quantify.

*Reporting requirements are reduced for X businesses that participate. This reduces the time for businesses to complete reporting requests by Y hours a year, which represents a reduction in annual average compliance costs of \$Z. This is based on comments received from stakeholders that the total reporting time for business is W. This proposal will take Y hours off that time. This is quantified in the regulatory burden estimate table below.*

Regulatory burden estimate (RBE) table

Average annual regulatory costs (from business as usual)				
Change in costs (\$ million)	Business	Community organisations	Individuals	Total change in cost
Total, by sector	- \$Z	\$0	\$0	- \$Z