



# Red Tape Reduction Advisory Council Report

2016



Prepared and submitted by the Red Tape Reduction Advisory Council to the Queensland Government in July 2016.

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**2016**

## Executive summary

Small businesses are an important driver of economic and employment growth in the Queensland economy. A regulatory framework that creates these conditions will allow well-run small and medium-size enterprises (SMEs) to invest and grow. However, SMEs are likely to feel the burden of regulation more than other businesses. As a result, poorly designed regulations often have a disproportionately high impact on SMEs.

The Red Tape Reduction Advisory Council (the Council) was established in August 2015 to provide the Queensland Government with advice on red, green and blue tape areas of most concern to small business, and to assist the Queensland Government in providing a business environment conducive to strong, profitable and globally competitive businesses. One of the Council's responsibilities is to report to government with recommendations to address regulatory issues across at least three industry sectors each year.

The establishment of the Council was an element of a broader commitment by the Queensland Government to address business red tape, and create a balanced regulatory environment. To achieve this vision, genuine and lasting reform is needed. Specifically, regulation creep must be curbed, regulator engagement must be improved and regulatory processes must be streamlined.

Through the Advance Queensland Agenda, the Queensland Government has an opportunity to be more innovative in how it manages the regulatory environment and to champion a change in the regulatory culture in Queensland, that will position it as best practice nationally. A new dynamic in how regulators approach the regulation of small businesses is needed.

The Council will play an important role in informing the approach to this new dynamic, and it will continue to drive an ongoing conversation in improving Queensland's regulatory environment, beyond the three industries reviewed within this Report. The Council will be proactive, and will champion a more innovative and balanced regulation system.

The Council will also monitor Government action on all recommendations, and with the Government will assess the outcomes of recommended initiatives for small business.

This report presents the findings and recommendations of a review into the following three priority industry sectors:

- Hospitality – café/restaurant
- Manufacturing – light metals
- Agriculture – fruit growing.

Based on the review of the current regulatory environments applicable to each of the three industries and an analysis of research and survey information, key regulatory issues facing SMEs were identified for all industries and the three industries of focus. These issues are summarised below.



The following recommendations are based on an analysis of the above issues, outcomes of consultation with SMEs, industry organisations and Queensland Government agencies, and a review of reform initiatives in other jurisdictions.

## **Reducing regulatory creep**

### **Priority recommendation:**

Investigate and support the development of a model of regulation that promotes self-audits, particularly for low-risk activities, and streamlined record keeping and reporting to achieve regulatory objectives with a lower burden on SMEs.

### **Other recommendations:**

Recommendation 1: Develop online resources to educate SMEs on compliance requirements.

Recommendation 2: Consider options for a format for food safety inspections to be applied by local council inspectors to ensure a greater level of consistency and certainty for SMEs in relation to compliance requirements.

Recommendation 3: Streamline the process of approval of liquor licences for cafés and restaurants in relation to development approvals.

Recommendation 4: Advocate on behalf of small business to the Australian Government on the need to remove onerous and repetitive reporting requirements associated with tax and superannuation compliance for SMEs.

## **Improving regulator engagement**

### **Priority recommendation:**

Improve the tailoring of information requirements around data already collected by businesses and identify opportunities for regulatory agencies to share information to limit the requirements on SMEs.

### **Other recommendations identified:**

Recommendation 1: Advocate on behalf of small business to the Australian Government on the need to improve the 'usability' of the information currently available on wage rates.

Recommendation 2: Review and update the information available on websites for regulatory agencies and the way government engages with and informs businesses.

Recommendation 3: Further collaboration with industry associations to improve dissemination of information on regulatory compliance requirements and regulatory changes to SMEs.

Recommendation 4: Investigate methods to improve engagement between Department of Natural Resources and Mines (DNRM) and water allocation holders regarding the water allocation system and regulations.

## **Improving regulatory processes**

### **Priority recommendation:**

Investigate and implement a regulatory performance framework to monitor and provide an innovative approach to improving the performance of regulatory agencies.

### **Other recommendations identified:**

Recommendation 1: Increase the use of online platforms to enable SMEs to complete online applications for licences, permits, notifications, approvals, etc.

Recommendation 2: Review time limits on regulatory approval processes with the aim of reducing the timeframes of regulatory decisions.

Recommendation 3: Implement targeted training programs to improve capabilities within regulatory agencies on key issues.

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# 1 Introduction

## 1.1 Profile of small businesses in Queensland

### 1.1.1 Definition of small business

The Australian Bureau of Statistics (ABS) defines a small business as a business employing less than 20 people and a medium-size business as employing between 20 and 199 people. As such, small to medium-size firms (SMEs) are defined as businesses employing less than 200 people.

Categories of small businesses include:

- non-employed businesses – sole proprietorships and partnerships without employees;
- micro businesses – businesses employing between one and four people, including non-employed businesses; and
- other small businesses – businesses employing between five and 19 people.

The Australian Taxation Office (ATO) uses a different definition of small business. According to the ATO, a small business entity is an individual, partnership, company or trust that is carrying on a business and has less than \$2 million in aggregated turnover.

For the purposes of this report, the ABS definition of small business and SME is used.

### 1.1.2 Contribution of small business to the Queensland economy

SMEs make up 99.86 per cent of all businesses in Queensland. Of those, 97 per cent are small firms, which equates to approximately 406,000 businesses.

Small business employs around 43 per cent of Queensland's total private sector workforce, with this percentage increasing to almost 70 per cent when including medium-size businesses.<sup>1</sup>

Nationally, small businesses contribute around 33 per cent of Gross National Product<sup>2</sup>, which for Queensland equates to an estimated \$100 billion of Gross State Product in 2014/15.

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<sup>1</sup> 8165.0 Counts of Australian businesses, Australian Bureau of Statistics, February 2016.

<sup>2</sup> Small Business Data Card, Australian Government Treasury, December 2014.

## **1.2 The Red Tape Reduction Advisory Council**

The Red Tape Reduction Advisory Council (the Council) was established in August 2015 to provide the Queensland Government with advice on red, green and blue tape areas of most concern to small business, and to assist the Queensland Government in providing a business environment conducive to strong, profitable and globally competitive businesses.

The Council is chaired by the Honourable Leeanne Enoch MP, Minister for Innovation, Science and the Digital Economy and Minister for Small Business, and includes the following representatives of the business community:

- Mr Nick Behrens, Chamber of Commerce and Industry Queensland (CCIQ)
- Ms Danielle Duell, People with Purpose
- Ms Jemina Dunn, Australian Industry Group (AiG)
- Mr Craig Fenton, PricewaterhouseCoopers
- Mr Grant Field, MGI South Queensland
- Ms Elena Gosse, Australian Innovative Systems
- Ms Courtney Petersen, Shine Lawyers.

The Council's key responsibilities are to:

- analyse regulatory issues which inhibit small business growth, impose a regulatory burden on small business or create barriers to business entry into Queensland across all industry sectors, and in comparison with other Australian jurisdictions;
- provide advice and recommendations to address unnecessary regulation and red tape impacting on small business;
- identify new initiatives, reform projects or activities which could assist in streamlining government processes impacting on small business growth; and
- report to government with recommendations on red, green and blue tape areas across at least three industry sectors each year.

In November 2015, the Council identified three priority industry sectors for review in its first term:

- Hospitality – café/restaurant
- Manufacturing – light metals
- Agriculture – fruit growing.

These industries were selected based on their economic contribution and strategic importance to the Queensland economy, the significance and complexity of the regulatory burden impacting small businesses in the sector, and/or the extent of government reform in the sector to date.

### **1.3 Approach used in this report**

Any review of regulation needs to determine the appropriate balance between reducing the cost of regulation and the public benefit provided by regulation in terms of health and community safety and the environment. This task can be a challenging one given the difficulty of collecting robust data from stakeholders (government, industry) on the financial and economic cost of regulation. Undertaking a first principles assessment of the need for regulation can also be challenging due to the size, complexity and potential cultural change attributes of the task (i.e. it may require the reviewer to consider a scenario where the activity is no longer regulated).

A wide range of approaches have been applied by both industry and government to inform this process, i.e. to estimate the cost of regulation. These include counting the number of pages of legislation and/or applicable Acts and regulations, counting the number of requirements that relate to government and non-government entities<sup>3</sup> and determining the cost of administering the regulation. There are limitations to each of these approaches and the results should be interpreted with caution.

To inform its assessment of the regulatory issues in each of the industries identified the Council has:

- analysed available research and data, including reports on the regulatory burden on Queensland SMEs;
- reviewed reform priorities in other jurisdictions;
- reviewed the regulatory environment for the target sectors;

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<sup>3</sup> British Columbia method of counting regulatory obligation.

- developed business case studies based on surveys conducted of SMEs on the regulatory burden under the current regulatory settings;
- interpreted the survey results and research conducted by other jurisdictions to identify key areas of regulatory burden for SMEs in the target industry sectors; and
- developed recommendations for potential policy initiatives to address the key areas of regulatory burden.

The consultation process undertaken to inform this report consisted of face-to-face consultations and surveys of small businesses on the regulatory burden under the current regulatory settings. Industry and non-government sector peak bodies as well as Queensland Government agencies were also consulted. A full list of industry and government organisations consulted is in Appendix A. Details on the regulatory environment for the three target industry sectors is in Appendix B. The business case studies and industry perspectives are included in Appendix C.

## **2 Role of regulation in running a business**

### **2.1 The role of regulation**

Regulation is one of the main tools available to government to implement its policies. Regulation – in the form of legislation (Acts, regulations) and quasi regulations (e.g. codes, guidelines) - are implemented to achieve social, economic and environmental objectives.

Pursuing these objectives through regulation often involves trading off these objectives against one another. A business environment conducive to strong, profitable and globally competitive businesses requires a regulatory framework that balances these objectives to achieve a net benefit to the community.

In Australia the management of regulation is often criticised as being poor. Management in this context means the design, implementation, evaluation and revision of regulation. The consequence of poor management can be a rigid and conservative approach to regulation that imposes significant costs on the community. Importantly, many of these costs become less transparent over time as methods of operation are built upon a foundation, which includes existing regulation. As a consequence, business generally cannot quantify how regulation impacts their costs. The reason is that the costs are embedded in cost structures and become part of business as usual.

Reviewing regulation is often a complex process requiring diligence. It needs to be a continuous process of testing the underlying premise for regulation and exploring new methods of regulation.

Regulations can be categorised as follows:

- red tape refers to regulation that restricts the activities of businesses or imposes compliance costs on businesses;
- green tape refers to regulation that places restrictions or imposes requirements on businesses that relate to environmental concerns and impacts; and
- blue tape refers to regulation that is put in place to protect the safety of the wider community (e.g. restrictions introduced as safety measures in relation to the G20 conference).

These three categories reflect the social, economic and environmental outcomes sought by government when regulating, and there can be elements of all three types in a single regulation.

## 2.2 Impact of regulation on SMEs

Small businesses are an important driver of economic and employment growth in Queensland as they represent over 97 per cent of businesses state-wide, and employ about 43 per cent of all private sector workers. The success of small, as well as medium-size businesses, is heavily dependent on their ability to compete and innovate. The regulatory framework that applies to their respective markets plays an important role in facilitating both competition and innovation. A regulatory framework that creates these conditions will allow well-run SMEs to invest and grow. Regulation can also benefit SMEs by providing consumers with confidence to purchase their goods and services. For example, food safety regulations ensure that the health of consumers is protected, which builds confidence in the hospitality sector and benefits all industry participants.

SMEs have limited resources and capabilities to respond to regulation (or changes to regulations), making them particularly vulnerable to inefficient regulations<sup>4</sup> and likely to feel the burden of regulation more strongly than other businesses. As a result, poorly designed regulations often have a disproportionately high impact on SMEs. This is evidenced by the results from a Council of Small Businesses of Australia survey of 87 SMEs in 2013, which found that 82 per cent of SMEs felt they faced disproportionately high regulatory compliance costs while 44 per cent indicated they lack the skills or capacity to properly understand their compliance obligations.<sup>5</sup>

In its 2013 assessment of the effect of regulation on SMEs, the Productivity Commission noted that previous Australian studies had found that small businesses spend up to five hours per week on compliance with regulatory requirements and deal with an average of six regulators per year.<sup>6</sup> The report also found that the approach adopted by regulators has a significant impact on the level of regulatory burden imposed on SMEs. The Productivity Commission noted that while regulators are generally committed to effective engagement and to minimising unnecessary burdens, many do not have the necessary frameworks in place to ensure this translates to good practices on the ground.<sup>7</sup>

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<sup>4</sup> Australian Government (2015). The Australian Government Annual Deregulation Report 2014.

<sup>5</sup> Australian Industry Group (2014). National CEO Survey – Burden of Government Regulation.

<sup>6</sup> Productivity Commission (2013). Regulator Engagement with Small Business.

<sup>7</sup> Productivity Commission (2013). Regulator Engagement with Small Business.

## **2.3 Case for reform**

Under the Working Queensland Plan, the Queensland Government committed to addressing business red tape, and creating a balanced regulatory environment conducive to strong, profitable, and globally competitive businesses. To achieve this vision, genuine and lasting reform is needed. Specifically, regulation creep must be curbed, regulator engagement must be improved and regulatory processes must be streamlined.

Through the Advance Queensland Agenda, the Queensland Government has an opportunity to be more innovative in how it manages the regulatory environment and to champion a change in the regulatory culture in Queensland, that will position it as best practice nationally. A new dynamic in how regulators approach the regulation of small businesses is needed.

The Council will play an important role in informing the approach to this new dynamic, and it will continue to drive an ongoing conversation on improving Queensland's regulatory environment, beyond the three industries reviewed within this Report. The Council will be proactive, and will champion a more innovative and balanced regulation system.

## **3 Analysis of research and recommendations**

This section presents analysis of the regulatory environment for the three target sectors (refer Appendix B) and the business case studies and perspectives (refer Appendix C), and identifies the key areas that require consideration from the Queensland Government. This section also contains high-priority recommendations to improve the operating environment for SMEs and bring cultural change to regulatory agencies. Other recommendations are identified which are more focused on specific issues relevant to the target industries.

### **3.1 Key issues requiring attention**

This section identifies the key issues relating to the regulatory burden of businesses in the target industry sectors that require the attention of the Queensland Government. The issues are separated into those that apply to all businesses across the different industries and those that are specific to industries investigated by the Council.

#### **3.1.1 Generic issues**

The regulatory issues requiring the Queensland Government's attention that apply to small businesses across all industry sectors are:

- the administrative burden associated with:
  - taxation (Federal and State-based taxes) and superannuation compliance requirements, due to difficulties in navigating the legislation and regulations and understanding compliance obligations;
  - employment and wage setting regulations, due to their complexity, particularly the *Fair Work Act 2009*, the requirements for businesses with non-standard workforce requirements, and the complex and time-consuming processes for establishing workplace agreements; and
  - paper-based application and renewal processes for licences, permits and notifications, and the lack of rationale underpinning renewal periods;
- poor communication between regulatory agencies and businesses, leading to the duplication of reporting and compliance requirements for businesses;
- poor communication of compliance obligations and changes to regulations from regulatory agencies to businesses which increases administrative costs and the compliance burden for businesses. The necessary information is often inaccessible or dispersed across several sources. This is particularly relevant for workplace health and safety (WHS) and industrial relations obligations;



- WHS staff training requirements and requirements to complete job-specific risk assessments are imposing a burden on businesses;
- a lack of flexibility and consistency regarding audit and inspection processes;
- a lack of flexibility in land use zoning and planning regulation which makes it difficult for businesses to pursue complementary land uses;
- regulations in many areas are overly prescriptive and focused on processes and procedures rather than the outcomes that the regulation is aiming to achieve; and
- there is insufficient consideration of the level of risk posed by the activities of a business, particularly in relation to WHS, liquor licensing and food safety, which results in regulations being overly burdensome for low-risk businesses.

Further consideration should be given to programs such as the Benchmark Butcher's Community initiative as a model of compliance which supports a flexible and risk-based approach to regulation.

### **3.1.2 Issues specific to cafés and restaurants**

The key regulatory issues facing small businesses in the hospitality sector are:

- a significant compliance burden in relation to liquor licensing, due to:
  - complex and time-consuming application and approvals processes (including the lack of coordination between liquor licensing and development assessment processes);
  - a lack of clarity around compliance requirements;
  - the adoption of a 'one-size-fits-all' approach, whereby low-risk businesses are subject to a similar regulatory burden as high-risk businesses;
- food safety regulations are based on procedures and processes rather than food safety outcomes and fail to take into account the risks associated with individual businesses, including excessive food safety audits and inspections; and
- the volume of documentation and level of ambiguity associated with the Food Standards Code results in some businesses incurring significant costs in identifying and understanding their compliance obligations.

### **3.1.3 Issues specific to light metal manufacturing**

The key regulatory issues facing small businesses in the light metal manufacturing sector are:

- businesses incur significant costs in complying with the Australian standards and/or codes regarding manufacturing, including lengthy and complex approval processes; and
- duplication in product testing, registration and reporting requirements across regulatory agencies.

### **3.1.4 Issues specific to fruit growing**

The key regulatory issues facing small businesses in the fruit growing sector:

- overly burdensome licensing requirements in relation to vegetation management activities for farm businesses;
- restrictive land use classifications imposing additional compliance obligations on horticulture businesses;
- inflexible regulations that fail to sufficiently consider the risk of individual activities, placing a significant compliance burden on the business; and
- overly burdensome WHS induction and training requirements for agribusinesses that engage a large number of seasonal workers.

## **3.2 Recommendations**

This section sets out the Council's recommendations for reducing the regulatory burden for small businesses operating in the three target industry sectors. These recommendations are based on the key issues identified in Section 3.1, interviews with regulators (i.e. relevant Queensland Government departments) and a review of policies and measures implemented in other jurisdictions.

The recommended policy initiatives can be categorised under three objectives:

1. Reducing regulatory creep
2. Improving regulator engagement
3. Improving regulatory processes.

Recommendations include high priority actions to improve the operating environment for SMEs and bring cultural change to regulatory agencies. Other recommendations are also identified which are more focused on specific issues relevant to the target industries.

The Council will play a role in monitoring the implementation of all recommendations.

### **3.2.1 Reducing regulatory creep**

Regulatory creep refers to the situation where compliance requirements or regulatory restrictions are extended to exceed the minimum level necessary to achieve a regulatory objective. This can occur as a result of the regulations being poorly targeted, the need for regulation being poorly defined or uncertainty over the compliance obligations that apply to different activities.

#### **PRIORITY RECOMMENDATION:**

*Investigate and support the development of a model of regulation that promotes self-audits, particularly for low-risk activities, and streamlined record keeping and reporting to achieve regulatory objectives with a lower burden on SMEs.*

SMEs have reported that for low-risk activities, the current audit and inspection arrangements (particularly in relation to WHS, food safety and liquor licensing) represent an excessive regulatory burden. Allowing SMEs who engage in low-risk activities to conduct their own audits and self-monitor compliance could significantly reduce the regulatory burden for these SMEs, as well as government (i.e. compliance monitoring costs). This approach should also include less frequent or harmonised compliance audits and inspections, to promote a coordinated, flexible and risk-based approach to regulation. Adopting regulation strategies based on risk management and responsive regulation, such as the Benchmark Butcher's Community program, can reduce the impact of small business regulation, as well as benefit regulators.

Similarly, the record keeping and monitoring requirements, particularly for café and restaurant businesses, imposes costs on SMEs. In some cases, these costs may not be necessary to achieve the regulatory objective. In instances where record keeping is required, options should be investigated to reduce the associated compliance fees.

#### **OTHER RECOMMENDATIONS:**

*Recommendation 1: Develop online resources to educate SMEs on compliance requirements.*

SMEs across several industries have reported difficulties identifying and understanding their compliance obligations, particularly in relation to WHS, food safety and liquor licensing. Developing web-based tools and adopting more effective models for engagement for SMEs on compliance requirements (relevant to their activities) and pathways to achieving compliance, will reduce the burden associated with understanding and satisfying their compliance requirements.

***Recommendation 2: Consider options for a format for food safety inspections to be applied by local council inspectors to ensure a greater level of consistency and certainty for SMEs in relation to compliance requirements.***

The lack of consistency in food safety inspections imposes additional regulatory costs on cafés and restaurants. Ensuring local council inspectors administer food safety inspections in accordance with a standardised checklist developed by the Queensland Government will ensure inspections are undertaken in a consistent manner, thereby providing SMEs in the café and restaurant sector with increased regulatory certainty.

***Recommendation 3: Streamline the process of approval of liquor licences for cafés and restaurants in relation to development approvals.***

SMEs in the café and restaurant sector can incur significant holding costs through delays in securing a liquor licence, due to the requirement that businesses be operational prior to the liquor licence being granted. This constraint could be removed by enabling a liquor licence be approved conditional on the business obtaining development approval.

***Recommendation 4: Advocate on behalf of small business to the Australian Government on the need to remove onerous and repetitive reporting requirements associated with tax and superannuation compliance for SMEs.***

Taxation and superannuation compliance requirements were cited as key drivers of regulatory burden in both consultation with SMEs in the target industry sectors and recent industry publications e.g. the ACCI 2015 National Red Tape Survey. The Queensland Government should advocate to the Australian Government the need to review the current reporting requirements, with the objective of streamline reporting obligations where possible.

### **3.2.2 Improving regulator engagement with industry**

Poor communication between regulatory agencies and businesses was identified as an issue requiring attention through consultation with both industry and government departments. Effective communication is necessary to ensure that SMEs' regulatory burden is minimised.

#### **PRIORITY RECOMMENDATION:**

*Improve the tailoring of information requirements around data already collected by businesses and identify opportunities for regulatory agencies to share information to limit the requirements on SMEs.*

SMEs are required to collect a significant body of data in order to satisfy their regulatory and non-regulatory requirements. Tailoring these information requirements to more closely reflect current operational practices, i.e. data already collected by SMEs in the normal course of business, would reduce monitoring and record-keeping costs.

Improved data and information sharing across regulatory agencies within the Queensland Government would also reduce the need for SMEs to submit the same data and information multiple times. This will reduce administration costs for both SMEs and regulatory agencies.

#### **OTHER RECOMMENDATIONS:**

*Recommendation 1: Advocate on behalf of small businesses to the Australian Government on the need to improve the 'usability' of the information currently available on wage rates.*

SMEs in the café and restaurant sector have reported difficulties determining the wage rates applicable to different workers at different times. A single source of information, which also uses easily understood language and examples, would provide cafes and restaurants with a central place to obtain information on award rates and lodge queries.

*Recommendation 2: Review and update the information available on websites for regulatory agencies and the way government engages with and informs businesses.*

SMEs across all industry sectors have reported that identifying and understanding their compliance obligations is a key driver of regulatory costs, due to poorly structured websites, complex language and/or disparate sources of information. The Queensland Government should conduct a review of the information provided on the websites of regulatory agencies to identify information gaps. As part of this review consideration should be given to whether there are more effective ways to

communicate with and assist business. This part of the review is important given SME's have noted a reluctance to engage directly with government; due to perceptions of inconsistent advice or a concern the regulator is there to identify non-compliances rather than to assist businesses to achieve compliance.

***Recommendation 3: Further collaboration with industry associations to improve dissemination of information on regulatory compliance requirements and regulatory changes to SMEs.***

Regulatory agencies currently use industry associations as a mechanism for disseminating regulatory information to SMEs, particularly in relation to vegetation management regulation. Increased collaboration and coordination with industry associations, and potentially the development of databases, particularly in the agriculture sector, would improve the flow of information between regulatory agencies and SMEs, leading to improved regulatory outcomes and reduced compliance burden.

***Recommendation 4: Investigate methods to improve engagement between the Department of Natural Resources and Mines (DNRM) and water allocation holders regarding the water allocation system and regulations.***

DNRM has reported that farm businesses are experiencing difficulties understanding their obligations with regards to the water allocation system and the regulations pertaining to it. Improving engagement between the Department and SMEs that hold water allocations would improve the provision of information and level of understanding among businesses and in turn reduce the regulatory compliance burden.

### **3.2.3 Improving regulatory processes**

The efficiency of regulatory processes is a key determinant of the level of regulatory burden imposed on businesses, particularly SMEs. Industry stakeholders have repeatedly reported that regulatory costs are exacerbated by the lack of flexibility and consistency of regulatory frameworks and processes.

#### **PRIORITY RECOMMENDATION:**

***Investigate and implement a regulatory performance framework to monitor and provide an innovative approach to improving the performance of regulatory agencies.***

Accountability and transparency are important in building a regulator culture that supports improved regulator engagement and promotes continuous improvement. The implementation of a regulator performance framework, similar to that recently implemented by the Australian Government, would enable the Queensland

Government to assess and monitor the performance of regulatory agencies. The framework could include key performance indicators focused on areas for improved regulatory practice (e.g. risk-based approach to regulation, regulator engagement with SMEs, etc.).

#### **OTHER RECOMMENDATIONS:**

***Recommendation 1: Increase the use of online platforms to enable SMEs to complete online applications for licences, permits, notifications, approvals, etc.***

The use of online platforms represents a significant opportunity for government to reduce the administrative burden regulation imposes on SMEs. Queensland is lagging behind other jurisdictions in the adoption of online platforms. Potential initiatives to increase the use of online platforms in administering regulations and in doing so reduce both the administrative burden imposed on SMEs and the processing costs incurred by regulatory agencies include:

- web-based systems to enable businesses to submit online applications for licences, permits and approvals, and to transfer licences;
- replacement of paper-based reporting systems with electronic reporting systems to enable businesses to meet their reporting requirements through an automated electronic process; and
- the provision of online tools and templates to assist SMEs in identifying compliance obligations and requirements.

***Recommendation 2: Review time limits on regulatory approval processes with the aim of reducing the timeframes of regulatory decisions.***

SMEs incur holding and delay costs due to lengthy regulatory processes, particularly in relation to land use and development approval processes. Publicly committing to timeframes on regulatory decisions for key processes and implementing reporting arrangements to monitor the performance of regulatory agencies in meeting these timeframes will reduce these costs and will provide greater certainty and confidence in regulatory processes.

***Recommendation 3: Implement targeted training programs to improve capabilities within regulatory agencies on key issues.***

Broaden existing training efforts to staff within regulatory agencies to provide further education on the process of designing and assessing regulations, such as the approaches to identifying opportunities for self-regulation or deregulation, methodologies for measuring regulatory burden, and strategies for improving the

efficiency of regulatory processes. This is particularly important given the disproportionately large impact of inefficient regulation on SMEs.



## **Appendix A: Consultation list**

Australian Steel Institute

Department of Agriculture and Fisheries

Department of Environment and Heritage Protection

Department of Industry, Innovation and Science (Cwth)

Department of Infrastructure, Local Government and Planning

Department of Justice and Attorney-General

Department of Natural Resources and Mines

Department of State Development

Growcom

Queensland Health

Queensland Productivity Commission

Queensland Treasury

Restaurant and Caterers Industry Association

Safe Food Production Queensland

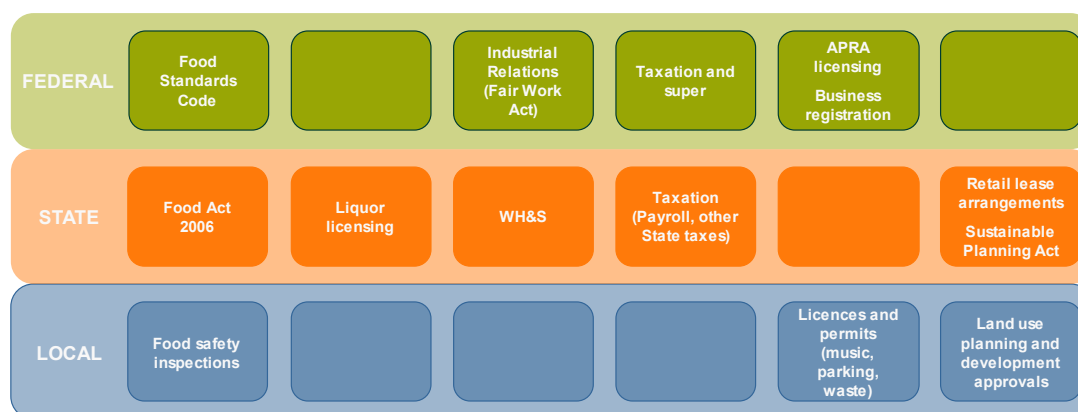
## Appendix B: Regulatory environment for target sectors

### 1. Cafés and restaurants

#### Overview of the regulatory environment

Figure 1 provides an overview of the regulatory environment applicable to cafés and restaurants across all areas of regulation and levels of government.

**Figure 1** Overview of the regulatory environment applicable to cafés and restaurants



**Source:** Synergies.

Café and restaurant businesses are subject to a wide range of regulations across all levels of government. The two most significant areas of regulation for café and restaurants relate to food safety and liquor licensing. Food safety is regulated in accordance with the Australia New Zealand Food Standards Code. The Code outlines requirements relating to foods such as additives, food safety, labelling and food premises requirements. The Code is typically ‘called up’ by state governments through legislation. In Queensland, the Code is applied under the *Food Act 2006 (Qld)*. The Act regulates based on the risk the food business presents to the community; the higher the level of risk, the higher the level of food safety regulation. The Act requires medium and high-risk food businesses to obtain a licence; the administration and enforcement of licensed food businesses is devolved to local government. Queensland Health is responsible for compositional and labelling requirements and the investigation of foodborne illness outbreaks.

Liquor licensing is regulated under the *Liquor Act 1992*, which is administered at the state level. This Act requires cafés and restaurants that supply alcohol to hold a licence in addition to complying with the provisions in the Act. Cafés and restaurants are also required to comply with other regulations at the state level, including the *Retail Shop Leases Act 1994* and the *Trading (Allowable Hours) Act 1990*, in addition to the relevant

state-based workplace health and safety (WHS), workers' compensation and other generic regulations that apply across all businesses.

Café and restaurants are also subject to a range of regulatory obligations at the local council level, particularly in relation to the need to obtain licences and permits for the playing of amplified music, signage, parking, footpath dining, trade waste disposal and building codes.

### **Changes to regulatory framework over the past decade**

The most significant changes to the regulatory framework applying to the café and restaurant sector in Queensland in recent years are:

- the *Liquor Act 1992* has been subject to a range of amendments and reprints over the past 10 years. The increasingly risk-based approach to liquor regulation adopted by successive Queensland Governments has resulted in additional requirements that some business owners consider onerous. While cafés and restaurants are generally exempt from these requirements, a very small number of restaurant businesses that trade after midnight may be affected by some additional requirements (such as the requirement to join a Safe Night Precinct local board). A recent amendment to the Act prevents restaurants from serving liquor after 1am, thus limiting their exposure to some late-night harm minimisation provisions in the Act.

On balance, amendments to the *Liquor Act 1992* have aimed to reduce red tape for licensed businesses. For example, the requirement for the majority of restaurants and cafés to employ an approved manager trained in the Responsible Management of a Licensed Venue has been removed. Additionally, in certain common circumstances, applicants for a liquor licence relating to a restaurant or café are no longer required to –

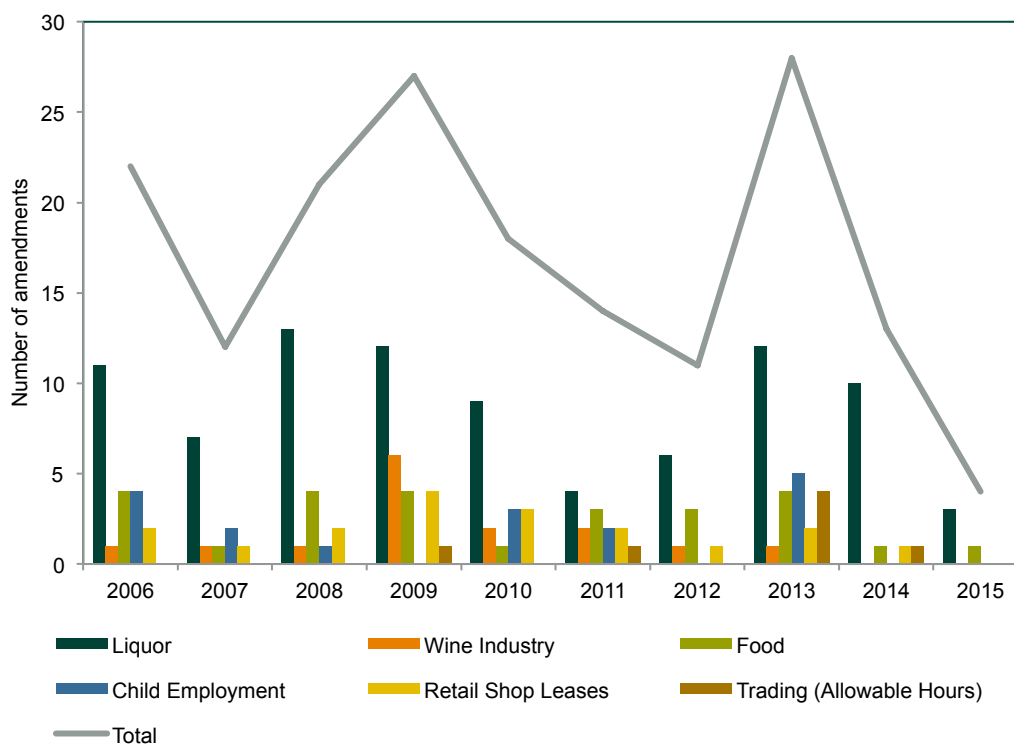
- advertise the application for a liquor licence;
  - undertake a community impact statement to support the application;
  - or
  - provide a Risk Assessed Management Plan;
- the *Liquor Regulation 2001* has also been subject to amendments over the past 10 years, the majority of which have had minimal impact on café and restaurants. Of the amendments, a number related to changes in the level of types of fees payable;
  - amendments to the *Food Act 2006* and *Food Regulation 2006* have largely related to the provision of exemptions for small operators (e.g. the sale of low-risk snack foods) and to add the requirement for certain businesses to maintain an accredited

food safety program, including those delivering meals to hospitals, aged care facilities and child care facilities. When both the Act and the Regulation were introduced in 2006, many provisions (particularly relating to licensing) moved from the Regulation to the Act. The introduction of the new Act and Regulation gave effect to provisions of the Model Food Bill which Queensland is required to implement under the Intergovernmental Agreement on food regulation to ensure nationally consistent food regulation;

- the only significant amendments to the *Retail Shop Leases Act 1994* occurred in 2006, with changes made to the information disclosure requirements to give lessees access to information, allowed lessors to recover certain legal costs from lessees and amended conditions about relocating or terminating a lease due to refurbishment or demolition of the building; and
- both the *Trading (Allowable Hours) Act 1990* and the *Trading (Allowable Hours) Regulation 2004* have been subject to minimal amendments over the past 10 years, with minimal impact on restaurants and cafés.

Figure 2 summarises the changes to the regulatory framework for café and restaurants in Queensland over the past 10 years.

**Figure 2 Amendments to legislation relevant to cafes and restaurants**



**Data source:** Synergies.

## **Current reform commitments of the Queensland Government**

Queensland Health is seeking approval to introduce amendments to the *Food Act 2006* to reduce red tape. The proposed changes include:

- removal of the requirement for businesses to lodge information about food safety supervisors; and
- removal of oral notification requirements for food safety supervisors, conflict of interests and prescribed contaminants isolated in food.

These reforms have the potential to produce significant compliance cost savings. Queensland Health is also investigating efficiencies to reduce costs to business associated with operating temporary food stalls allowing operators to operate across the State with one licence in equivalence with mobile premises.

In March 2016, the Queensland Government amended the *Food Act 2006* to make it mandatory for food businesses to display the kilojoule content of their food and drinks at point-of-sale. The new laws apply to fast-food chains, bakery chains, café chains and supermarkets with at least 20 outlets in Queensland or 50 outlets nationwide.

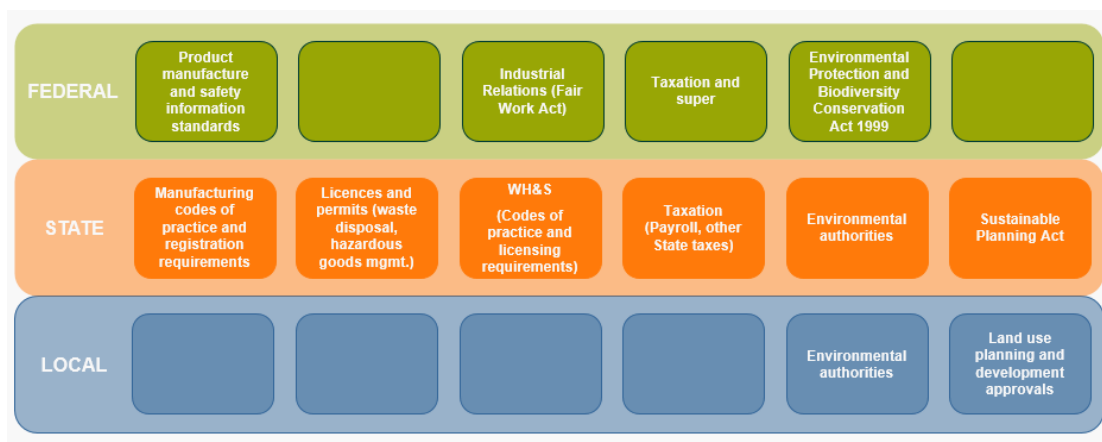
The Queensland Government has also amended the *Retail Shop Leases Act 1994*, introduced into the Queensland Parliament under the *Retail Shop Leases Amendment Bill 2014* in October 2015. The amendments reduce the regulatory burden on non-retail tenants and larger retail tenants in addition to improving disclosure requirements for prospective buyers of retail businesses. The amendments also simplify procedural requirements under the Act.

## 2. Light metal manufacturing

### Overview of the regulatory environment

Figure 3 (below) provides an overview of the regulatory environment applicable to the light metal manufacturing sector across all areas of regulation and levels of government.

**Figure 3 Overview of the regulatory environment applicable to light metal manufacturing**



**Source:** Synergies

Businesses operating in the light metal manufacturing sector are subject to regulations across all three levels of government. The areas of regulations most relevant to the sector include employment and industrial relations, WHS, taxation, and environmental licences, permits and controls.

At the Federal level, SMEs in the light metal manufacturing sector are subject to a range of regulations, particularly under the *Competition and Consumer Act 2010*, Australian Consumer Laws and anti-dumping laws, and the *Environmental Protection and Biodiversity Conservation Act 1999*, in addition to a range of Australian Government-level mandatory requirements such as product manufacture standards and safety and information standards. The specific obligations of SMEs at the Federal level is subject to the specific nature of their manufacturing operations.

At the State level, it is estimated that a metal trade manufacturing business in Queensland is required to comply with a minimum of 29 State codes of practice, licences and regulatory obligations. These obligations exist across several areas of regulation including environmental controls, disposal of trade waste, hazardous goods management, taxation, and registration requirements.

The primary role of local councils in relation to light metal manufacturing SMEs is in relation to environmental approval. Manufacturing businesses require environmental authorities from the relevant local government authority (or in some circumstances from the Queensland Government). Light metal manufacturing businesses are also required to comply with local council laws and regulations relating to building and planning approvals.

### **Changes to regulatory framework over the past decade**

The most significant changes to the regulatory framework applying to the light metal manufacturing sector in Queensland in recent years are:

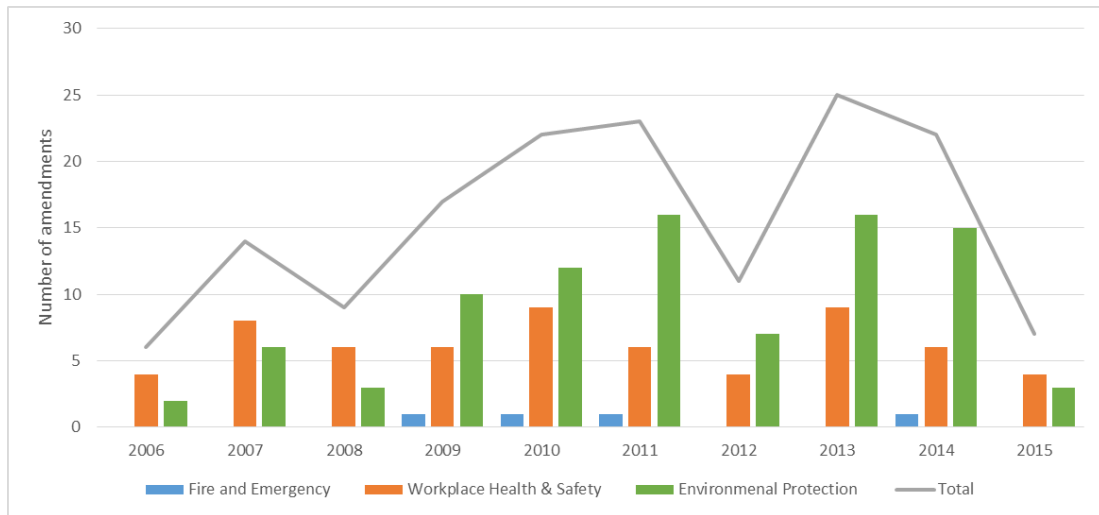
- the introduction of the new *Work Health and Safety Act 2011* and *Work Health and Safety Regulation 2011* as part of the COAG reform agenda to harmonise WHS regulation across Australia. Key changes for Queensland included substantially higher maximum penalties for offences, duties of care being qualified by the 'reasonably practicable' standard and the introduction of positive duty on officers of a person conducting a business or undertaking (PCBU) to exercise 'due diligence' to ensure that the PCBU complies with the WHS laws. The nature of subsequent amendments to the Act and Regulation are:
  - of the 2 packages of amendments in 2014 and 2015, the majority related to right of entry for WHS entry permit holders or the functions and powers of health and safety representatives; and
  - of the amendments to the Regulation in 2012, 2013, 2014 and 2015, most were to clarify or delay the implementation of certain provisions as a result of reviews; to reduce red tape requirements; to apply annual indexation to the schedule of fees; or were minor and technical amendments that were unlikely to impact on light metal manufacturers;
- reforms to environmentally relevant activities under the *Environmental Protection Act 1994* over the past decade. This includes the remake of the Environmental Protection Regulation in 2008, when a number of activities were deregulated and the annual fees regime underwent a complete overhaul; and the Greentape Reduction reforms in 2013, when activities such as light metal manufacturers were assigned into different tracks for their approval types, with simplified licensing requirements (or even deregulation) applying to lower risk activities. An example of an activity which was deregulated as part of the Greentape Reduction reforms was metal forming which is not hot forming.

Industrial activities such as light metals manufacturing do not always require licensing under the *Environmental Protection Act 1994*. Licensing requirements

depend on the activities being carried out, and would only trigger assessment under the *Environmental Protection Act 1994* if the minimum threshold for an environmentally relevant activity is met. For example, metal forming (ERA 19) is only triggered if the manufacturer is hot forming 10,000 tonnes or more of metal in a year. Consequently, many light metal manufacturers would not be captured for assessment as a result of reforms in the past decade.

Figure 4 (below) summarises the changes to the regulatory framework for the light metal manufacturing sector in Queensland over the past 10 years.

**Figure 4 Amendments to legislation relevant to light metal manufacturing**



Data source: Synergies.

### **Current reform commitments of the Queensland Government**

The *Environmental Protection (Chain of Responsibility) Amendment Act 2016* commenced in April 2016. The legislation amended the *Environmental Protection Act 1994* to provide greater capacity for the Department of Environment and Heritage Protection (DEHP) to enforce compliance with existing environmental obligations, particularly in circumstances where the holder of an environmental authority is in financial difficulty.

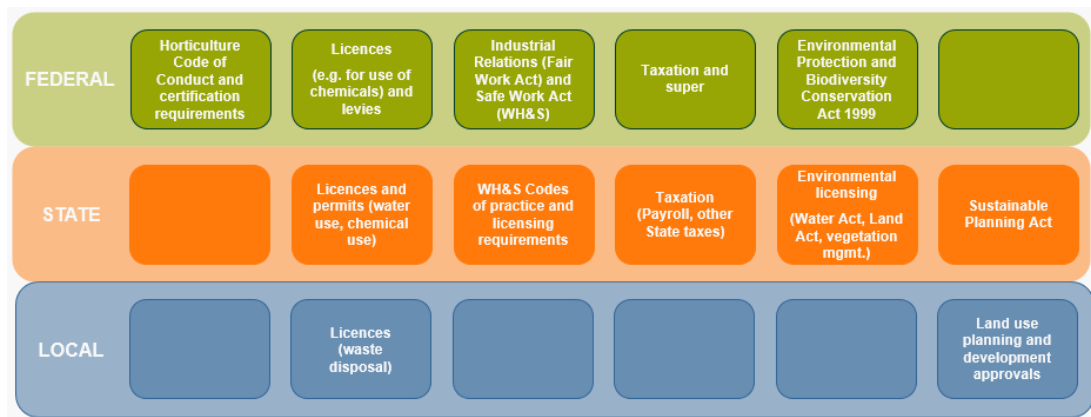


### 3. Fruit growing

#### Overview of the regulatory environment

Figure 5 (below) provides an overview of the regulatory environment applicable to fruit growing businesses across all areas of regulation and levels of government.

**Figure 5 Overview of regulatory environment applicable to fruit growing businesses**



**Source:** Synergies

The agriculture sector is heavily regulated across all three levels of government. It is estimated that farm businesses are subject to compliance obligations under approximately 90 Acts at the Federal level, in addition to a range of levies, and industry codes of conduct and certification requirements. Key regulatory instruments applying to the fruit growing sector include the *Environment Protection and Biodiversity Conservation Act 1999*, the Horticulture Code of Conduct under the *Competition and Consumer Act 2010*, and licences required under the *Agricultural and Veterinary Chemicals Code Act 1994*. These obligations are in addition to the generic regulatory obligations that apply across all industry sectors.

AgForce has estimated that agribusinesses in Queensland are regulated by around 55 Acts at the State level. Key compliance obligations relevant to the fruit growing sector relate to water management, land and vegetation management, pest management and the movement of stock and plants or plant material. Key pieces of State legislation applying to the agriculture sector include the *Water Act 2000*, the *Land Act 1994*, the *Land Protection (Pest and Stock Route Management) Act 2002*, the *Sustainable Planning Act 2009*, the *Vegetation Management Act 1999*, and the *Nature Conservation Act 1992*.

Fruit growing businesses are typically subject to limited regulation at the local council level, with regulatory requirements limited to the need to obtain licences for trade waste disposal, advertising signage and commercial vehicle use.

## **Changes to regulatory framework over the past decade**

The *Water Act 2000* is one of the largest pieces of legislation affecting fruit growers.

Since the commencement of the *Water Act 2000*, 23 basin-wide Water Resource Plans have been developed covering 93 per cent of Queensland. Water markets have been established in many areas and this has helped underpin increases in agricultural productivity. Queensland is continuing to roll out water reform in other areas and is also progressively adapting management arrangements in existing Water Resource Plan areas based on ongoing monitoring, consultation and new scientific knowledge.

A significant review of the *Water Act 2000* has been undertaken in recent years, to ensure the legislation is contemporary and to determine the scope for removal of redundant and overly-prescriptive provisions (red tape reduction). The *Water Reform and Other Legislation Amendment Act 2014* (WROLA Act) includes a number of amendments that have already commenced that reduce regulatory burden for small businesses. Some uncommenced provisions of the WROLA Act are being changed for consistency with Government policy through the Water Legislation Amendment Bill 2015, which is currently before Queensland Parliament. This includes amendments to ensure the sustainable management of the State's water resources.

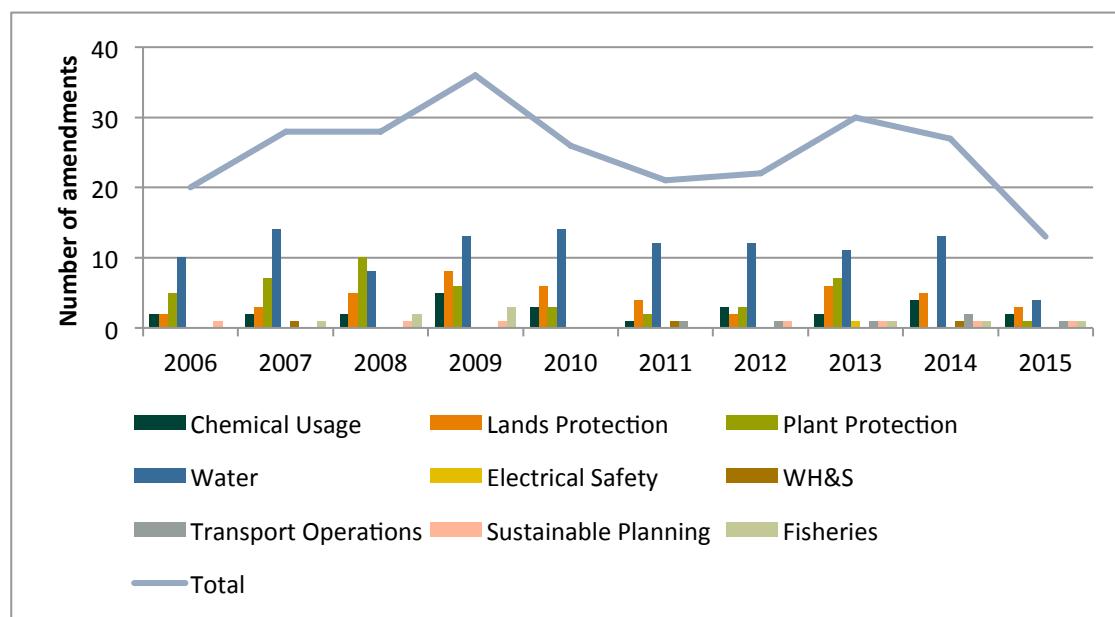
Other significant changes to the regulatory framework applying to the fruit growing sector in Queensland in recent years are:

- five amendments to the *Transport Operations (Road Use Management – Vehicle Registration) Regulation 2010* to amend registration fees;
- there have been seven amendments to the *Chemical Usage (Agricultural and Veterinary) Control Act 1988* since 2006, including additional protections for the Great Barrier Reef and the revision of maximum allowable residue limits, both of which impact on fruit growing businesses. These amendments have also included changes to storage, use and penalties for registered and unregistered agricultural chemical products;
- the *Land Protection (Pest and Stock Route Management) Act 2002* has been amended on 14 occasions over the past 10 years. There have also been 30 amendments to the *Land Protection (Pest and Stock Route Management) Regulation 2003*, 19 of which were increases to fees. Other minor changes included the expansion of the declared pest list; and
- while the *Plant Protection Regulation 2002* has been subject to 32 amendments over the past 10 years, only three are likely to have a material impact on fruit growing

businesses, primarily in relation to pest quarantine and management arrangements.

Figure 6 (below) summarises the changes to the regulatory framework for the fruit growing sector in Queensland over the past 10 years.

**Figure 6 Amendments to legislation relevant to the fruit growing sector**



Data source: Synergies

### **Current reform commitments of the Queensland Government**

The Queensland Government has recently implemented changes to legislation that impact on the regulatory frameworks applying to biosecurity, water and vegetation management. The *Biosecurity Act 2014*, which came into effect from 1 July 2016, repealed six former Acts and amended three other Acts relating to biosecurity to create a single Act for biosecurity, which will:

- streamline and reduce the number of regulations with which SMEs in the agriculture sector are required to comply;
- provide further compliance assistance to SMEs covered under the Act; and
- introduce more risk-based and less prescriptive approaches to biosecurity regulation.

The Department of Agriculture and Fisheries is progressing the Queensland Weed and Pest Animal Strategy, which will inform the development of a state-wide planning

framework to address the environmental, economic and social impacts of Queensland's current and potential weeds and pest animals.

Recent changes to the *Water Act 2000* have removed water entitlement requirements for farm businesses undertaking low-risk activities that have negligible impact on the resource. Additionally, red tape reduction activities that are expected to commence subject to the passing of the Water Legislation Amendment Bill 2015 include the commencement of the new framework for the allocation, planning and use of water resources. This includes more streamlined, efficient and responsive processes for establishing water trading markets; a simpler process for administrative transactions with existing water licences; and more flexible approaches to managing low-impact take of water while ensuring the sustainable management of water resources.

The Department of Natural Resources and Mines has also embarked on a program of improving client service delivery, which is aimed at providing greater accessibility to services, including online services, more streamlined administrative process, and improving the availability of useful information to support clients with their business needs.

In 2013, changes to the *Vegetation Management Act* allowed for the clearing of high-value land for agricultural purposes. A self-assessable code was introduced for small amounts of clearing adjacent to existing cropping land. The Government is seeking to reinstate the previous regulatory framework applying to vegetation management through the *Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016*, however it is not proposed to reverse the introduction of a self-assessable codes for clearing adjacent to existing cropping land.

# Appendix C: Business case studies and perspectives

## 1. Case studies

In early 2016, interviews were held with SMEs operating in each of the industries under review. Participants were also surveyed on their experiences in complying with legislation both at the time of starting the business and during ongoing compliance. The results are below as case studies for each industry sector.

### Café/restaurant

#### *Case study: Café businesses (Logan City Council area)*

About the businesses:

- Café located on a retail strip that opens seven days a week providing breakfast, lunch and all-day meals. The café has seven employees: one full-time, two part-time and four casuals. The owner also works in the café six days a week.
- A coffee roasting business that also has a café and retail store on the premises. The business started as a home-based small coffee roasting business and then relocated to a commercial business area, where it expanded to include a café. The business has seven employees: four full-time and three casuals.

Case study overview:

Each of the respondents provided a rating on the clarity of regulatory obligations and complexity of achieving compliance at the time of starting the business and on an ongoing basis. The ratings provided by each respondent on the level of difficulty have been averaged and weighted (i.e. Low = A, High = C) to identify an overall rating, as shown in the report card below.

		Business Name (Register/Transfer)	Premises approvals, amendments, inspections (Building, waste, signage, fitout)	WH&S	Superannuation & Taxes	Industrial Relations	Environmental
C. wealth	Initial	B			C+	C+	
	Ongoing				B-	C+	
State	Initial		C+	C+	C+		B+
	Ongoing		B-	C+	B-		B+
Local	Initial		B-				
	Ongoing		C+				

The key issues and suggested areas for improvement that emerged from the survey were:

- lack of awareness of information sessions, workshops and industry portals run by the various levels of government to help businesses understand compliance requirements;
- despite engaging an advisor to assist with payroll, income tax, superannuation and salary matters, the current tax system is viewed as difficult to understand and subject to regular changes. As a result, the owner spends half a day each week to manage the associated paperwork;
- whilst online options are viewed favourably, any administrative improvements are unlikely to occur without reductions in complexity of the taxation system;
- there is no standard and widely communicated source of information on changes to regulatory obligations;
- the application and renewal process for business licences is time-consuming and complex. A single data depository and access system that stores relevant information submitted to government (State, local) would significantly reduce the time required to complete the process;
- inconsistent approaches to regulation and interpretation of regulatory compliance activities between the different levels of government make it difficult and costly for small food businesses to comply with regulation;
- the food safety law is rigid and in some cases does not support commercial practices; and
- a seamless approach to regulation, across each level of government, is required.

### **Light metal manufacturing**

*Case study: Structural formwork materials manufacturers (Ipswich City Council area)*

About the businesses:

- A structural formwork materials manufacturer and supplier, specialising in high-rise, commercial and civil construction projects nationwide. The owner purchased the business 15 years ago as a structural materials supply business. Two years ago the business relocated from Brisbane to Ipswich and commenced manufacturing formwork materials. The business has 15 employees: 12 full-time and three casuals.

- A furniture manufacturing, repair and reupholstering business. The business has six employees, all of which are employed full-time.

Case study overview:

Each of the respondents provided a rating on the clarity of regulatory obligations and complexity of achieving compliance at the time of starting the business and on an ongoing basis. The ratings provided by each respondent on the level of difficulty have been averaged and weighted to identify an overall rating, as shown in the report card below.

		Business Name (Register/Transfer)	Premises approvals, amendments, inspections (Building, waste, signage, fitout)	WH&S	Superannuation & Taxes	Industrial Relations	Environmental
C...wealth	Initial	B+			B-	C	
	Ongoing				B	C+	
State	Initial		B+	B	B		A-
	Ongoing		B+	B+	B		A-
Local	Initial		B+				
	Ongoing		B+				

The key issues and suggested areas for improvement that emerged from the survey were:

- a lack of awareness of the materials available online on compliance obligations, by federal and state governments;
- local councils have been effective in communicating the regulations administered by the Council and associated compliance requirements through the proactive provision of information, advisory services and circulation of information via email;
- the establishment of initial systems, to understand and calculate pay rates for staff, was difficult and confusing;
- access to 'starting out' packs on regulation and other useful resources (websites, key agencies, contact details of case managers) tailored to different manufacturing business types would be of great value;
- regulatory fees are too onerous and can have an adverse impact on the viability of small businesses; and
- government processes need to be timelier due to the associated direct and indirect costs incurred by the business.

## **Fruit growing**

### *Case study: Pineapple growers (Livingstone Shire Council area)*

About the businesses:

- A family-run business that produces approximately 1.6 million pineapples per year. The business has recently relocated its operation to a new property. The business has five full-time employees in addition to employing up to 20 casual workers on a seasonal basis.
- A private company that works collaboratively with 22 pineapple farmers from the Sunshine Coast to the north of Cairns. The business packs and distributes pineapples to major retailers, negotiates prices, completes paperwork and provides agronomist services. The business has eight full-time employees in addition to employing up to 60 casual workers on a seasonal basis.

Case study overview:

Each of the respondents provided a rating on the clarity of regulatory obligations and complexity of achieving compliance at the time of starting the business and on an ongoing basis. The ratings provided by each respondent on the level of difficulty have been averaged and weighted to identify an overall rating, as shown in the report card below.

		Business Name (Register/Transfer)	Premises approvals, amendments, inspections (Building, waste, signage, fitout)	WH&S	Superannuation & Taxes	Industrial Relations	Environmental
C. wealth	Initial	B			B	B-	
	Ongoing	B+			B	B-	
State	Initial		B+	B-	B+		B+
	Ongoing		B+	B-	B+		B+
Local	Initial		B				
	Ongoing		B				

The key issues and suggested areas for improvement that emerged from the survey were:

- industry groups and peak bodies provide valuable information on regulatory obligations. Growers are also more comfortable discussing compliance matters with the industry association (i.e. Growcom) than with government representatives;



- greater emphasis should be placed on the objective of regulation, particularly when monitoring compliance, so to avoid a prescriptive reading of the regulation and imposing heavy compliance costs on businesses;
- more flexible regulatory obligations are required for digging dams as the current obligations do not take into account the particular risks for each farm;
- whilst it is accepted that the use of chemicals should be regulated, the current processes are overly complex and the paperwork time-consuming;
- the sharing of information via online options is viewed favourably, however the language used needs to be more user-friendly;
- it is difficult to understand pay rates particularly when considering a change in employment such as moving from a casual to full-time employee; and
- inconsistent approaches to regulation and the interpretation of regulatory compliance makes it difficult and costly for businesses, due to the direct and indirect costs incurred.

## **2. Industry and business perspectives**

### **Key issues**

The Council has also reviewed the views expressed by industry stakeholders in related forums, both at the state and national level.

The key issues for SMEs, in relation to regulatory burden are:

- administration and compliance burden;
- fragmented regulatory frameworks;
- industrial relations and WHS; and
- lack of flexibility.

### *Administrative and compliance burden*

SMEs have limited resources which makes them particularly vulnerable to regulations that impose significant administrative and compliance requirements on the business. The administrative burden of compliance requirements is consistently raised as a major issue by SMEs.

Taxation and superannuation, employment and wage-setting arrangements and application and renewal processes for licences, permits and notifications are the three areas consistently identified by SMEs as the key drivers of administrative burden and compliance requirements.

#### *Taxation and superannuation*

SMEs have repeatedly stated that the administrative requirements associated with meeting taxation and superannuation compliance obligations are particularly onerous. In the 2014 National CEO Survey conducted by the Australian Industry Group:<sup>8</sup>

- 68 per cent of CEOs ranked the compliance costs associated with state-based taxes and charges as imposing a medium to high regulatory burden on their businesses;
- more SMEs reported a medium to high burden from payroll and other state-based taxes and charges, and Federal taxes, than larger businesses; and
- businesses reported difficulties complying with varying legislation and regulatory requirements, with many businesses spending a significant amount of time and resources researching, understanding and complying with the relevant regulations.

The technical nature of some tax compliance requirements are of particular concern to SMEs. Businesses are often required to engage advisors or to invest significant time and resources in understanding their compliance requirements. A survey in 2014 of 682 business taxpayers found that SMEs spend, on average, 256 hours per annum on taxation compliance activities. The study also found that gross total compliance costs for SMEs increased by 118 per cent between 1995 and 2012.<sup>9</sup>

In addition, businesses are regularly asked to provide the same information to the Australian Taxation Office (ATO) on several different taxation forms, further increasing administration costs incurred by SMEs.

#### *Employment and wage setting arrangements*

This was identified as a key area of over-regulation in the 2015 ACCI National Red Tape Survey. Regulations relating to employee wages, conditions and superannuation

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<sup>8</sup> Australian Industry Group (2014). National CEO Survey – Burden of Government Regulation.

<sup>9</sup> National Australia Bank (2014).

were considered among the most complex areas of business regulation by survey respondents.<sup>10</sup>

The *Fair Work Act 2009* is considered excessively complex and difficult to understand by SMEs, particularly those with non-standard workforce requirements (including agriculture and hospitality). The process for establishing workplace agreements under the current regulations are also considered overly complex and time-consuming.<sup>11</sup> Businesses have also commented that the Fair Work Commission website fails to provide information with sufficient clarity, making it difficult for SMEs to understand the requirements in relation to wage rate classifications.

#### *Application and renewal processes for licences, permits and notifications*

Businesses have regularly reported that these processes are overly complex and involve significant paperwork, with few options for applications and renewals to be completed online. Businesses have also commented that there is no obvious logic to the duration of licences, permits and approvals.

#### *Fragmentation and lack of coordination*

The fragmented nature (i.e. lack of consistency and continuity across regulatory agencies and levels of government) and lack of coordination of regulatory frameworks is another issue consistently identified by businesses, including SMEs. The key issues identified are:

- the lack of a 'case management' approach, which is necessary to provide SMEs with a seamless regulatory framework;
- the lack of coordination between government agencies and different levels of government, which results in businesses being required to provide the same information and satisfy the same compliance requirements multiple times;
- poor coordination within government which results in changes to regulations not being properly communicated to businesses, increasing the administrative and compliance burden for SMEs;

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<sup>10</sup> Australian Chamber of Commerce and Industry (2015). ACCI 2015 National Red Tape Survey.

<sup>11</sup> Chamber of Commerce and Industry Queensland (2013). Reducing the Burden of Queensland's Over-Regulation. Red Tape Case Studies.

- lack of a single source of information for businesses, providing guidance on actions required for businesses to achieve compliance with the applicable regulations; and
- the inaccessibility of information relating to regulatory obligations is a key driver of regulatory costs for SMEs.<sup>12</sup>

### *Industrial Relations and Workplace Health and Safety*

Industrial relations and WHS are continually identified by businesses, including SMEs, as a key source of regulatory burden. In the 2015 ACCI National Red Tape Survey, compliance with WHS requirements was identified as a key area of over-regulation and was reported as the most complex area of regulation. Several previous reviews have also found WHS issues to be a key driver of regulatory costs for SMEs (e.g. KPMG 2013).

In the 2014 National CEO Survey, 83 per cent of CEOs surveyed stated that their business faced medium to high levels of regulatory burden in relation to industrial relations and WHS. Furthermore, relative to other jurisdictions, businesses in Queensland were more likely to report a medium to high regulatory burden as a result of industrial relations and WHS regulation (96 per cent).

The following issues have been specifically identified by businesses in relation to industrial relations and WHS regulation:

- amendments to the Fair Work Act 2009, which have introduced 50 pages of new legislation, including restrictions on flexible work arrangements and additional regulations in relation to WHS;<sup>13</sup>
- penalty rates act as a disincentive for SMEs to employ additional staff at certain times, restricting the ability of SMEs to respond to competitive pressures;
- there is limited information and support provided to SMEs to assist them in understanding their WHS compliance requirements and identifying the actions required for businesses to achieve compliance;
- regulatory agencies have increased the WHS compliance burden on SMEs by failing to provide definitive information or guidance on whether an action is

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<sup>12</sup> KPMG (2013). Cost to business – regulatory burden case studies. Final Report. Prepared for the NSW Better Regulation Office.

<sup>13</sup> Australian Industry Group (2014). National CEO Survey – Burden of Government Regulation.

compliant with WHS regulations or the actions that businesses must take to achieve compliance;

- consultation between SMEs and regulators is fragmented and ambiguous, increasing uncertainty over WHS and industrial relations regulation. This often results in SMEs having to engage specialist external advice;<sup>14</sup>
- constant changes to WHS requirements and ongoing duplication between the different levels of government is a significant source of regulatory burden;<sup>15</sup>
- staff training requirements and the requirements to complete workplace and job-specific risk assessments, and the associated compliance requirements for businesses in relation to maintaining the necessary documentation, are overly burdensome;<sup>16</sup> and
- the lack of flexibility associated with WorkCover audits and inspections, and the inconsistent advice provided by the Queensland Government on the issue, imposes significant costs on businesses.

#### *Lack of flexibility in regulatory frameworks*

Overly prescriptive regulations impose significant costs on SMEs as they are unable to accommodate businesses operating in different circumstances and with different risk profiles. SMEs have previously reported that the lack of flexibility in regulatory legislation and frameworks is an issue across several areas of regulation, including State-level land planning schemes and land use arrangements.

Businesses encounter a significant regulatory burden when attempting to reclassify a premises, or part of a premises, even if the use to which the application relates is related to the current use of the premises. Similar issues have been encountered in relation to land use zoning. For example, an agribusiness in Queensland has been unable to get approval to re-zone part of its farm for another purpose, even though it is for the construction of a packing facility, a complementary activity to the operation of the farm.

SMEs believe the regulations are not sufficiently risk-based and outcome-focused, with an excessive focus on processes and procedures that do not necessarily relate to the purpose of the regulation.

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<sup>14</sup> KPMG (2013).

<sup>15</sup> Chamber of Commerce and Industry Queensland (2013).

<sup>16</sup> Chamber of Commerce and Industry Queensland (2013).

## **Sector specific issues**

### *Cafés/restaurants*

SMEs in the hospitality sector have identified three key areas of significant regulatory burden:

- liquor licensing
- food safety
- licences, permits and approvals.

### *Liquor licensing*

The key issues identified by hospitality businesses in relation to liquor licensing regulations include:

- liquor licensing is a very complex area of regulation, particularly in relation to the application and approvals process, which imposes significant compliance costs on businesses (ACCI 2015);
- there is a significant cost associated with complying with Responsible Service of Alcohol (RSA) requirements (ACCI 2015);
- there is a lack of clarity in relation to businesses' compliance requirements under the liquor licensing regulations and other areas of regulation;
- liquor licensing requirements impose an unreasonable burden on low-risk businesses, due to the lack of flexibility of the regulations and the 'one-size-fits-all' approach that is currently applied (CCIQ 2013);
- there is a lack of coordination between liquor licensing approval and development assessment processes, with businesses required to be operational prior to liquor licensing applications being approved. This imposes significant holding costs on businesses; and
- businesses have reported difficulties securing approval for changed conditions to liquor licences, including temporary changes.

### *Food safety regulation*

In the 2015 ACCI National Red Tape Survey, food safety was considered among the most complex areas of regulation, with State-based food safety regulators identified as

one of the most complicated regulatory agencies to deal with. Specific issues identified by businesses in relation to food safety regulation include:

- businesses are subject to onerous monitoring, record keeping and reporting compliance obligations, which are often related to processes and procedures and often have minimal linkage to food safety outcomes (CCIQ); compliance obligations are standardised across businesses, regardless of the circumstances and risk levels of individual businesses, resulting in a significant regulatory burden being imposed on low-risk businesses (CCIQ);
- the inconsistent interpretation of regulations by food safety officers results in excessive audits and inspections, which in many cases imposes additional compliance requirements on businesses (CCIQ);
- some businesses reported that enforcement was inconsistent across businesses, resulting in compliant businesses deriving minimal benefit while incurring significant costs in complying with the relevant food safety standards (CCIQ); and
- the duplication between food handling training requirements under the standards and qualifications held by staff imposes unnecessary compliance costs on businesses (CCIQ).

One successful model of regulation which supports a flexible and risk-based approach is the Benchmark Butcher's Community (BBC) program run by Safe Food Queensland. The BBC is a proactive program designed to assist and encourage retail butchers to meet the minimum food safety standards by regularly monitoring and providing evidence that upholds their business practices to Safe Food Queensland. The founding principal of the BBC is to monitor compliance through evidence-based methods as an alternative to auditing, and has facilitated a move from a heavy paper-based recording keeping model of regulation to a practice and observation model.

The program has reported positive outcomes that include a reduction in compliance paperwork and the number of inspections undertaken by food safety officers, an increase in voluntary compliance and awareness of food safety practices by participating butchers, and savings of up to \$6,000 per participating business per annum in costs and time spent on food safety compliance.

#### *Licences, permits and approvals*

Businesses in the hospitality industry sector have regularly identified the processes around securing the necessary licences, permits and approvals as being overly burdensome. Some of the key issues identified include:

- the lack of understanding of the requirements and processes in relation to securing the necessary licences and approvals has resulted in businesses having to engage an external consultant to navigate the process;
- licensing requirements are not properly aligned with the relevant risks, which results in low-risk businesses having to navigate complex and time-consuming processes to maintain compliance without any associated benefits (KPMG, May 2014); and
- businesses have reported repetition in relation to the administration processes associated with obtaining notification and permits and significant duplication in licensing requirements, which imposes additional administrative costs on businesses (KPMG 2013).

### *Manufacturing*

The key regulatory issue for SMEs specific to manufacturing is the cost of complying with product standards and codes. The specific issues raised are:

- lengthy and complex approval processes for the design and manufacture of products subject to Australian standards or codes imposes significant costs on manufacturers and can adversely affect the viability of new manufacturing products or processes (CCIQ);
- there is little transparency in relation to the changes to product standards and codes (CCIQ);
- product codes and standards are often poorly enforced (CEO Survey); and
- there is significant duplication in product testing, registration and reporting requirements across different regulatory agencies, increasing compliance costs for manufacturers (CEO Survey).

### *Agriculture*

Key regulatory issues faced by SMEs in the agriculture sector include:

- vegetation management
  - farm businesses have expressed concerns that the reintroduction of previous restrictions on vegetation clearing activities by farming businesses under the



Vegetation Management (Reinstatement) and Other Legislation Amendment Bill will increase the red tape relating to vegetation management;<sup>17</sup>

- land use
  - some agriculture activities, such as horticulture, can be classified as ‘intensive’ activities under legislation. This can create complicated planning issues for agribusinesses at the local government level, due to the regional planning requirements that apply to these activities;
- environmental and water regulation
  - businesses have advised the Council that requirements in relation to obtaining environmental approvals are overly burdensome. For example, farm businesses have reported difficulties in understanding the relevant regulations and in obtaining the necessary environmental approvals to construct a dam on their farm;
  - regional water plans are reviewed at different times of the year, creating uncertainty over water allocations for agribusinesses; and
- WHS
  - compliance with induction and training requirements under WHS legislation is particularly burdensome for agribusinesses that engage a large number of seasonal workers (particularly in the horticulture sector).<sup>18</sup>

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<sup>17</sup> Recent amendments to legislation have removed the requirement for farm businesses to obtain a permit to clear vegetation on land adjacent to existing crops. This is currently considered to be a ‘low-risk’ farm management activity and is regulated under a self-assessable code. Farm businesses have reported concerns that the requirement to obtain a permit for this activity will be reinstated under this Bill. DNRM has advised that self-assessable vegetation clearing codes will continue to be available to manage low-risk clearing activities such as these.

<sup>18</sup> Chamber of Commerce and Industry Queensland (2013).

# Red Tape Reduction Advisory Council Report

**2016**