



SA PRODUCTIVITY COMMISSION Regulator Practice Survey

Final Report
October 2021

IDEAS | PEOPLE | TRUST



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INTRODUCTION

Background to the report

The Office of the South Australian Productivity Commission (OSAPC) designed the ‘Regulator Practice Survey’ project to gain a high-level view of current regulatory practice across SA regulators.

The OSAPC engaged BDO in June 2021 to administer the survey and to collect evidence in this area with questions formulated to examine eight areas of practice that the literature suggests are indicative of an efficient and effective regulator, which relate to:

1. Legal structure and regulatory powers
2. Approvals and decision making
3. Regulatory impact assessment / Ex-ante assessment
4. Ex-post evaluation
5. Stakeholder engagement
6. Monitoring and enforcement (risk based and proportionate actions)
7. Data management, information sharing and use of technology; and
8. Regulator performance review and continuous improvement

The aim of this survey was to help inform the SAPC’s recommendations to government on ways to embed good regulatory practice in the State as part of the *Inquiry into SA’s Regulatory Framework*.

Twenty-seven regulatory areas from 13 SA government departments, independent statutory authorities and other State entities were invited to participate in the survey, which was facilitated via an online tool and through direct contact with senior representatives from each of the regulatory areas involved. As part of completing the survey, regulatory areas were asked to seek approval from their Chief Executive (or their delegate) prior to formally submitting their responses.

The survey was open for approximately three weeks between Thursday 8 July and Friday 30 July 2021 and after some agreed extensions, the final submission was received on Tuesday 10 August. Pleasingly for both the OSAPC and BDO, responses were received from every regulatory area that was asked to participate. As part of administering the survey, BDO has collected and analysed the information generated in order to present the results which are set out in this Summary Report. This report contains a high-level overview of the results for each section of the survey.

Shown in **bold** under the heading for each area or category of regulatory practice, is a statement describing good practice. These statements form the framework which the OSAPC developed to guide the design of this survey and to assess current regulatory practice in SA.

While all 27 regulatory areas completed the survey, respondents were allowed to skip some questions that were not relevant to their work, and a small number of regulators skipped questions with no apparent justification. For these reasons, some questions received less than 27 responses, and actual numbers of responses are indicated for each question throughout this report.

The names of the regulatory areas that participated in the survey are denoted in *italics* throughout this report and are listed at Appendix 1. The complete set of survey questions is supplied at Appendix 2. Appendix 3 contains a full list of specific regulatory issues raised in survey responses as causing inefficient or ineffective practice (most relate to Category 1: Legal Structure and Regulatory Powers). While these matters were not examined in depth for this project, they are noted as issues for the Commission and/or the SA Government to consider investigating further.

Key findings

Category 1: Legal Structure and Regulatory Powers

- ▶ The majority of regulatory areas indicated they have a clearly defined and good understanding of their purpose (n=23, 85%) and reported little to no issues arising within their area due to insufficient or inappropriate regulatory powers (n=21, 78%).
- ▶ Respondents were most positive about how well they co-ordinate with other state government regulatory entities; and least positive about how well they co-ordinate with local government.
- ▶ The most commonly reported overlap of responsibilities is between regulatory areas and other state government regulatory entities, with 41% of respondents (n=11) indicating this to be an issue. A third of respondents also indicated inefficiencies are caused by overlapping responsibilities between their area and Commonwealth regulatory entities.

Category 2: Approvals and Decision Making

- ▶ Of the regulatory areas that have responsibility for regulatory approvals, 85% (n=21) said they have improved the overall performance on the timeliness of key approval processes over the last five years.
- ▶ The greatest increase in the efficiency and timeliness of approval and decision-making processes could be achieved through better use of online and digital systems, according to 80% (n=20) of regulatory areas that have responsibility for regulatory approvals.
- ▶ Policies and procedures for internal review of decisions are in place for just over three-quarters of regulatory areas responsible for regulatory approvals (n=19) and the majority of these (n=13, 68%) make guidelines on these processes available on their website¹.
- ▶ However, just under half (n=12, 48%) of these regulatory areas make their policies and procedures for external appeals processes available on their website.
- ▶ There were no significant issues highlighted with respect to regulatory decisions being amended or overturned as a result of appeals processes, with 84% of respondents (n=21) reporting they had one per cent or less of their decisions overturned.

Category 3: Regulatory Impact Assessments (RIAs)

- ▶ Regulatory Impact Assessments (RIAs) are not widely performed by regulatory areas. Of the 27 regulatory areas surveyed, only six reported having undertaken an RIA for new regulations in the last five years. ESCOSA was unique in reporting that RIAs were completed for all new regulatory proposals and decisions.
- ▶ However, a greater number of regulatory areas answered questions on RIAs (n=12), which suggests that while undertaking an RIA was somewhat rare, these regulatory areas had established policies and processes to complete an RIA. All 12 of the regulatory areas that responded to questions on RIA advised that RIAs do influence regulatory design and practice to 'a large' or 'very large extent' (n=8), and that the RIA process includes consideration of costs to business and the economic benefit or costs of a regulatory change.
- ▶ Of the 12 regulatory areas that responded to questions on RIA, one (8%) reported that they never publicly release the results, or reports of RIAs, while 5 (42%) said they only do so when directed by the Minister or Cabinet.

¹ Regulatory areas were asked to provide links to the documents which are available on their website. All of these links were checked by BDO to verify the accuracy of responses.

Category 4: Ex-Post Evaluation

- ▶ A greater number of regulatory areas have conducted an ex-post evaluation in the last five years, with 15 regulatory areas (56%) having completed at least one. There was no standout trigger for these ex-post evaluations (e.g. a legislated requirement, ministerial direction), with responses evenly spread across the potential triggers provided in the survey question.
- ▶ The majority of regulatory areas that said they have done an ex-post evaluation in the last five years, publicly release these reports (n=13, 87%).
- ▶ The majority of regulatory areas that said they have done an ex-post evaluation in the last five years reported that those evaluations influenced regulatory design and practice ‘to a large’ or ‘a very large extent’ (n=12, 80%).

Category 5: Stakeholder Engagement

- ▶ The vast majority of regulatory areas (n=25, 93%) reported having a legal obligation, policy or practice in place to undertake some form of stakeholder engagement.
- ▶ In relation to engaging stakeholders specifically for developing regulations, 89% of all regulatory areas (n=24) responded that this does occur, with over three-quarters of these areas (n=18) reporting that this occurs ‘to a large extent’ or ‘to a very large extent’.
- ▶ Fifty-nine per cent of all regulatory areas (n=16) reported that they seek feedback from regulated entities about the effectiveness of their stakeholder engagement practices.
- ▶ The vast majority (93%) of all regulatory areas have strategies or policies in place to educate and advise regulated entities.
- ▶ Almost all regulatory areas that responded (n=26) reported this engagement has been effective at least ‘to a moderate extent’ through ‘to a very large extent’, in total accounting for 25 (96%) of the responses. Only one regulatory area responded that this had been effective ‘to a small extent’.

Category 6: Monitoring and Enforcement

- ▶ Eighty-five per cent of regulatory areas (n=23) stated that they have a formalised risk assessment framework for monitoring and enforcement in place. However, just over half (n=12, 52%) said this framework was published and publicly available².
- ▶ The majority of regulatory areas reported that their monitoring and enforcement strategies are focused on areas of greatest risk and potential for harm, with 81% of regulatory areas reporting that its strategies focus on this at least to ‘a moderate extent’. In fact, 19 regulatory areas reported that their strategies focused on this ‘to a large extent’ or ‘a very large extent’.
- ▶ The majority of regulatory areas also have policies in place that reduce the reporting or compliance burden on regulated entities that are assessed as low risk. Ten regulatory areas (37%) reported that they do ‘to a large extent’ or ‘to a very large extent’. A further nine regulatory areas (33%) responded that they do this ‘to a moderate extent’ or ‘to a small extent’. Five regulatory areas (19%) responded that their area does not have policies in place to reduce reporting or compliance burdens on regulated entities that are assessed as low risk.
- ▶ Just over half of regulatory areas said they seek feedback from regulated entities about their approach to monitoring and enforcement (n=15, 56%).

² Regulatory areas were asked to provide links to the documents which are available on their website. All of these links were checked by BDO to verify the accuracy of responses.

Category 7: Data Management, Information Sharing and Use of Technology

- ▶ Most regulatory areas share data and information about regulated entities with other areas within their agency. Around half of the respondents (n=13) reported that they did this 'to a large extent' or 'to a very large extent'. However, four regulatory areas (15%) reported they do this only 'to a small extent' and a further two reported that they did not share data and information internally to their agency at all (8%).
- ▶ In relation to sharing data and information about regulated entities with other bodies, regulatory areas were most positive about how well they share data and information with other state government regulatory entities, with 48% of respondents saying they did this 'to a large extent' or 'to a very large extent'.
- ▶ Consistent with this finding, regulatory areas have the greatest number of formal data sharing arrangements in place with other state government regulatory entities (n=18, 67%).
- ▶ Regulatory areas were least positive about how well they share data and information with local government, with 22% of regulatory areas (n=6) reporting they did not do this at all well with local government. Only four regulatory areas have formal data sharing arrangements in place with local government.
- ▶ In relation to sharing digital data and information management systems, 17 respondents (63%) stated they do this with at least one entity. Regulatory areas are most likely to share systems with other state government regulatory entities (n=14, 52%) and least likely to share systems with local government (n=5, 19%).
- ▶ When asked to rate their regulatory areas digital systems for collecting, analysing and maintaining information on regulated entities, 12 regulatory areas (46%) rated their systems as 'poor' or 'fair'. Eleven regulatory areas (42%) rated their systems as 'good' and only two regulatory areas (8%) rated their systems as being 'very good'. One regulatory area rated their systems as being 'excellent'.
- ▶ In relation to the extent to which regulated entities can deal with regulatory areas using online digital systems, 16 regulatory areas (62%) reported that at least 'some' or 'most' of their interactions with regulated entities can be conducted via online digital systems. Only two regulatory areas reported that all of their interactions can be conducted via online systems.

Category 8: Regulator Performance Review and Continuous Improvement

- ▶ The indicators used across regulatory areas for measuring performance in achieving regulatory objectives are generally consistent and can be categorised as measures of 1) activity, 2) compliance, 3) time frames, 4) complaints or disputes, and 5) stakeholder feedback.
- ▶ In relation to assessing the efficiency of regulatory areas, use of quantitative measures (KPIs) were the most common method, with these typically measuring activity in terms of volume and time to undertake various activities.
- ▶ The majority of regulatory areas report publicly on their performance annually (n=20) and only three regulatory areas reported that they never report publicly on their performance.
- ▶ The most common activities in regulatory areas performance reporting regimes are publishing information in their own department's annual report and reporting on their performance to a Minister, with 58% of respondents (n=15) undertaking both of these activities.
- ▶ Thirty-eight per cent of respondents (n=10) reported they release performance data online, while 31% (n=8) report to an external auditor or other scrutinising body.
- ▶ Continuous improvement strategies are in place for the vast majority of regulatory areas (n=25, 93%) and are most commonly embedded as a normal business process, undertaken through internal or external reviews, or as part of the business and/or strategic planning processes.
- ▶ When asked to select the two areas where improvements would most assist regulatory areas to increase its efficiency and effectiveness, the highest priority improvement chosen by 15 regulatory areas (56%) was related to ICT systems. The next highest response was 'budget', chosen by 9 regulatory areas.

- ▶ This focus on improving ICT systems by regulatory areas was consistent with responses elsewhere in the survey, which indicated that data management and digital systems are particularly weak among some regulatory areas. For example:
 - in responses to questions under *Category 2: Approvals and Decision Making* 20 regulatory areas (80% of respondents) stated that ‘better use of online and digital systems’ would most increase the efficiency and timeliness of approval and decision making processes.
 - In responses to questions under *Category 7: Data Management, Information Sharing and Use of Technology*, almost half of regulatory areas (n=13, 48%) said they do not share digital data and information management systems with regulated entities. A similar number (n=12, 46%) rated their digital systems as ‘poor’ or ‘fair’.
- ▶ As such, ICT systems is clearly one of the most significant improvement opportunities identified by respondents to this survey.

Areas for further investigation

Through our review and analysis of the survey responses, including detailed examples and written responses provided by regulatory areas, BDO has identified several issues under each area of regulatory practice, where the SAPC may wish to undertake further investigation, with a view to improving regulatory practice in South Australia. These are set out in detail within the separate section of this report, Areas for Further Investigation.

The four areas considered by BDO to be the most significant of these opportunities are summarised below:

- ▶ Overlapping responsibilities between regulatory areas are most prevalent with other state government regulatory areas and with Commonwealth regulatory areas. Regulatory areas have provided 12 key examples of such overlapping responsibilities that have been identified as areas for further investigation. These examples relate to the areas of *Consumer & Business Services; Energy Resources; Mineral Resources; Biosecurity SA; Fisheries & Aquaculture; Native Vegetation; Training & Apprenticeships Services; Rural Solutions SA* and the *Environment Protection Authority*.
- ▶ Issues arising because of insufficient or inappropriate regulatory powers to deliver effectively on outcomes, which was reported to have occurred ‘to a very large extent’ by one regulatory area, and ‘to a moderate extent’ by 4 regulatory areas (15%). A further 10 regulatory areas stated this occurred ‘to a small extent’ for (37%). Regulatory areas have provided eight key examples which have been identified as areas for further investigation. These examples relate to the areas of *Controlled Drugs, Food, Health Protection, Health Licensing, Passenger Transport, Environment Protection Authority* and *Fisheries & Aquaculture*.
- ▶ The practice of Regulatory Impact Assessment (RIA), is fairly rare, with only six regulatory areas (22%) saying they had completed a formal RIA in the last five years. While five regulatory areas indicated that a separate agency is responsible for RIAs in their regulatory area, there remained a further 16 regulatory areas which said they had not completed an RIA at all during that period.
- ▶ Enhancing the use of technology and associated ICT systems for regulatory practice was a standout issue. Improving ICT systems was by far the most frequently chosen by regulatory areas as most important for increasing their efficiency and effectiveness. Further to this, better use of online and digital systems and better data collection and management systems was also most commonly identified by regulatory areas as the two actions that would most likely deliver the greatest increases in the efficiency and timeliness of approval and decision-making processes.

SUMMARY OF RESULTS

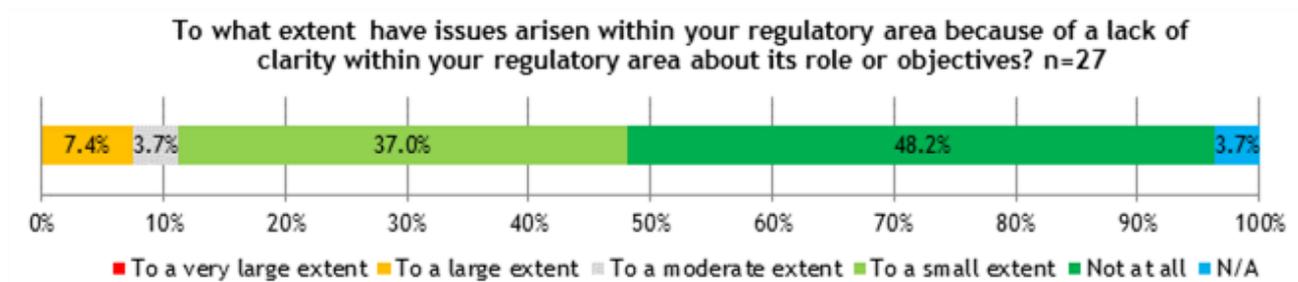
Category 1: Legal Structure and Regulatory Powers

“An effective regulator must have clear objectives, with clear and linked functions to coordinate with other relevant bodies to achieve the desired regulatory outcomes. The regulator’s role should not overlap with or duplicate other regulators’ responsibilities, and it should have appropriate regulatory powers.”

Role clarity

Twenty-three regulatory areas (85%) felt that issues have not arisen, or have only arisen to a small extent, due to a lack of clarity about their area’s role or objectives. This indicates that for the most part, the majority of regulatory areas have a clearly defined and good understanding of their purpose.

A stand-out was *Controlled Drugs* which reported issues have arisen ‘to a large extent’. This was explained in the survey response as being due to “very old legislation (1984) ... [that] does not anticipate the modern environment. Issues occur because the legislation does not contemplate modern processes, technologies and practices”. The other area to respond issues have arisen ‘to a large extent’ was *Health Licensing*, which reported expectations exist within some health facilities that the Health Licensing Unit should act more like a consultant than a regulator, in relation to providing guidance about standards for construction, facilities and equipment. No regulatory areas indicated issues had arisen ‘to a very large extent’.

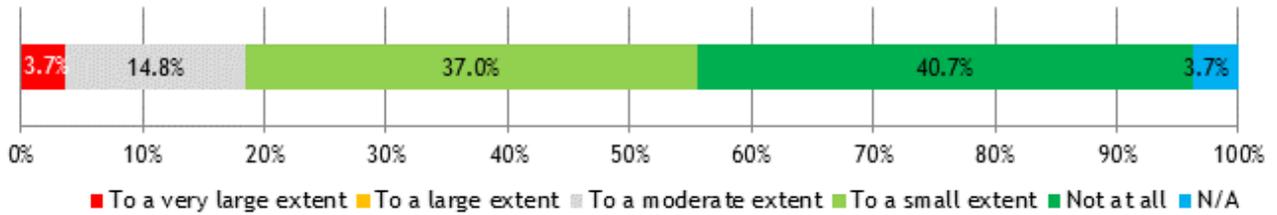


These examples include issues related to the interpretation of legislation and outdated legislation. Other examples include a lack of clarity at the interfaces of shared responsibility between other regulators and local government. Specific issues raised by regulators relating to problems with role clarity are listed in Appendix 3 as areas for potential further investigation.

Regulatory powers

The majority of regulatory areas (n=21, 78%) reported little to no issues arising within their area due to insufficient or inappropriate regulatory powers. Again, the stand-out regulatory area was *Controlled Drugs*, which reported issues have arisen ‘to a very large extent’ because of insufficient or inadequate regulatory powers. In its survey response, *Controlled Drugs* explained that “the regulatory powers available are not proportionate to the offences, are not risk-based and do not address the harms intended to be mitigated (i.e. the powers are too large or too small)”. *Controlled Drugs* further explained “some expiations were introduced in late 2020 to provide some proportionate regulatory powers, however this is only for five specified offences”. No regulatory areas reported issues have arisen ‘to a large extent’.

To what extent have issues arisen within your regulatory area because of insufficient or inappropriate regulatory powers to deliver effectively on outcomes? (n=27)



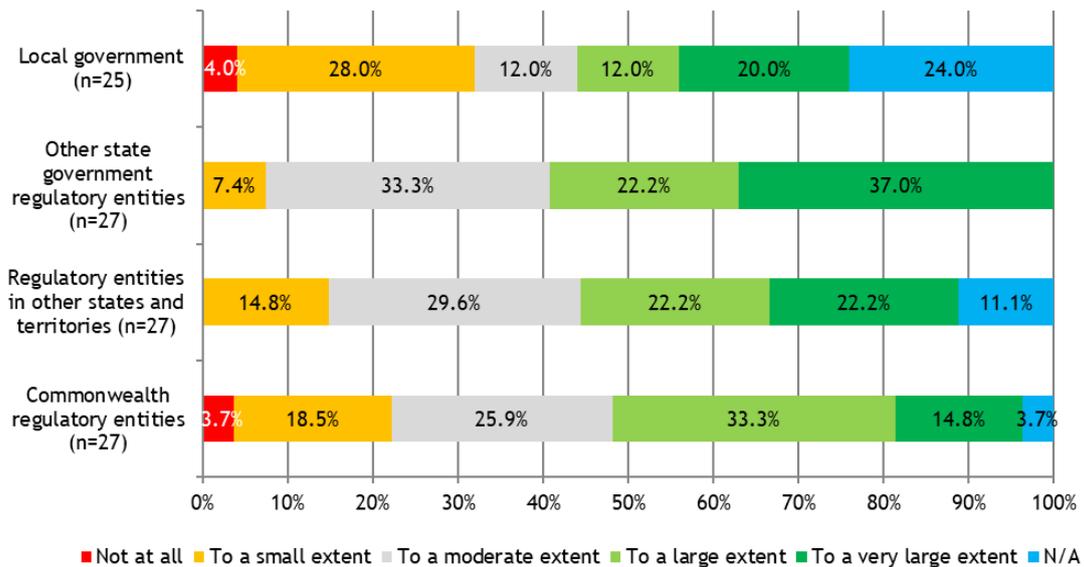
The *Environment Protection Agency* (EPA) provided an interesting example regarding the *Environmental Protection Act* (EP Act) emergency provisions. The EPA stated in this example, that “on occasion the decision to make allowances for business to undertake activities outside of their normal authorisations can be untimely. For instance in COVID lockdowns, fire, floods it would be good to be able to have pre-emptive provisions in the EP Act to allow for the EPA to be able to vary authorisations for emergency situations (i.e. with a time limit for the period of emergency and recovery)”.

Specific issues identified by regulatory areas relating to insufficient or inappropriate powers are listed in Appendix 3 as areas for potential further investigation.

Co-ordination with other entities

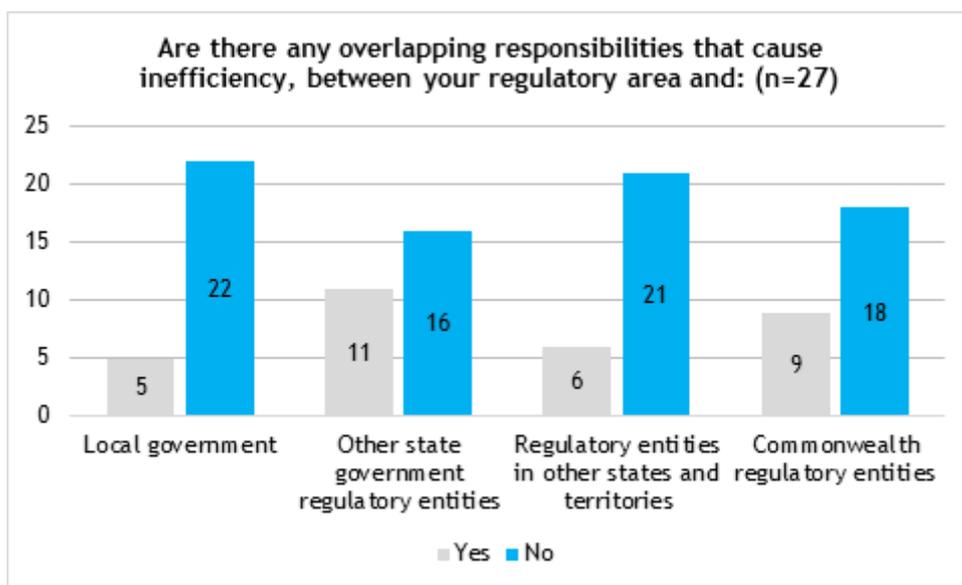
Respondents were most positive about how well they co-ordinate with other state government regulatory entities. They were least positive about how well they coordinate with local government, with eight (32%) saying they did this ‘not at all’ well or well ‘to a small extent’. They were also less positive how about how well they coordinated with Commonwealth regulatory agencies, with six (22.2%) reporting that they did this ‘not at all’ well or well ‘to a small extent’.

How well does your area co-ordinate with the following entities to achieve regulatory outcomes?



Overlapping responsibilities

Overlapping responsibilities causing inefficiency was most commonly reported between the regulatory areas and other state government regulatory entities, with 41% of respondents (n=11) indicating this to be an issue. However, a third of respondents (n=9, 33%) also indicated that inefficiencies are caused by overlapping responsibilities between their area and Commonwealth regulatory entities. There was less concern reported about overlapping responsibilities between local government and regulatory entities in other states and territories. This result suggests that efficiencies could be gained by addressing overlaps in responsibilities between regulatory areas at the state level. However, it was noted in the survey responses that currently at least some of these overlaps are being managed with various Memoranda of Understanding (MOUs) between state government agencies.



Industries mentioned in examples of inefficient overlap between regulatory areas and other state government regulatory entities, included building works, trades and contractors, aquifer recharge, drilling of wells, high-risk primary production, private hospitals, resources and mining, animal and pest management, food, aquaculture, farming and water effecting activities including dredging.

Examples of inefficient overlap between regulatory areas and local government related to activities requiring planning approval from a local council as well as approval within state government. Industries mentioned included sale of liquor, landscaping and building works, high-risk primary producers, supermarkets and retail outlets and domestic animals.

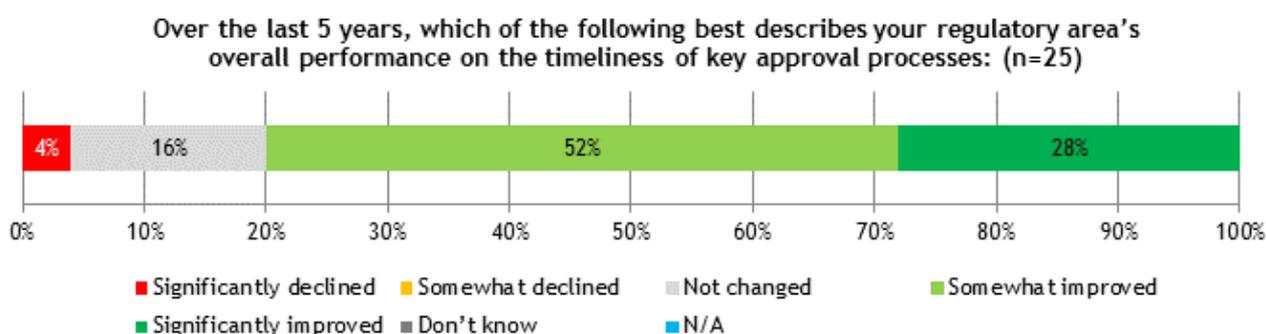
Specific issues identified by regulatory areas relating to overlapping responsibilities are listed in Appendix 3 as areas for potential further investigation.

Category 2: Approvals and Decision Making

“Businesses and citizens expect timely, efficient and transparent regulatory approvals and decision-making processes. They also value predictability and consistency in regulatory decision making. In doing so, regulators are accountable to: i) ministers and the legislature, ii) regulated entities; and iii) the public. Regulators that remove delays and inefficiencies in approval processes can reduce the costs of doing business.”

Timeliness and efficiency of decision-making processes

Twenty-five regulatory areas indicated they had responsibility for regulatory approvals³. Eighty per cent of these regulatory areas (n=20) reported that their overall performance on the timeliness of key approval processes has improved over the last five years. Only one area reported that timeliness and efficiency of decision-making processes had significantly declined over the specified period (*Controlled Drugs*).



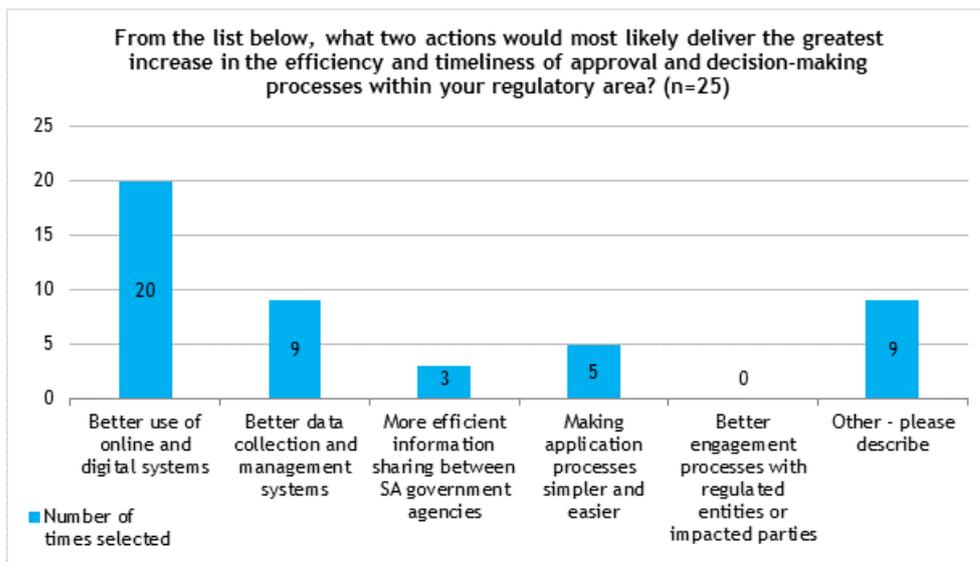
Respondents were asked to select from a list of standard or good practice methods their current ways of engaging with prospective applicants and providing advice and assistance throughout an application process. The top five answers received for this (in order from highest) were:

1. Providing written guidance materials
2. Providing public information on eligibility requirements/criteria
3. Providing feedback on the rationale for a decision
4. Providing a variety of consultation platforms to answer questions (in person, online virtual assistant, email, phone)
5. Providing reasons for any additional requests for information.

Of the 25 regulatory areas indicated they had responsibility for regulatory approvals, 80 per cent (n=20) reported that having better use of online and digital systems would most likely deliver the greatest increase in the efficiency and timeliness of approval and decision-making processes within their regulatory area. No regulatory areas reported that they felt having a better engagement processes with regulated entities or impacted parties would be beneficial in this regard.

Examples of other actions suggested by regulatory areas that would increase the efficiency and timeliness of approval and decision making processes, were: reviewing workflows to ensure consistency and public value (*Dairysafe*); more resources to keep up with the volume of applications (*Controlled Drugs*); reviewing the legislative framework (*Rural Solutions* and *Controlled Drugs*); and greater familiarity and use of a new on-line development application system (*Planning & Development Approvals*). Further to this, Return to Work SA reported that it is “currently implementing a regulatory system which will enable us to automate most of our approval processes for the first time”.

³ Two areas did not respond to questions on approvals and decision making because they considered it was not part of their regulatory responsibilities (Forestry and Office of the Technical Regulator).



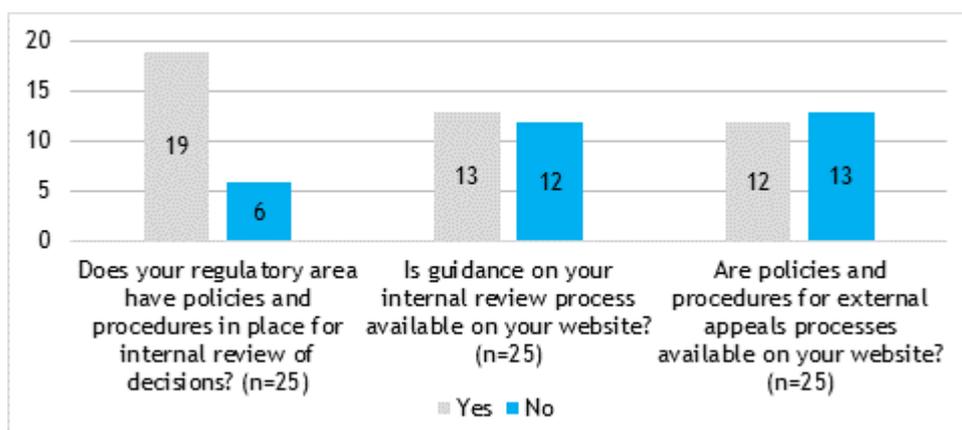
Proactive approvals and decision making

When asked “what else should be done for your area to better adopt a ‘yes, if...’ rather than a ‘no, because...’ approach to regulatory practice”, twenty-one regulatory areas responded, with nine of these (43%) explaining how they already adopt this approach. The common theme in these responses was to focus processes on guiding applicants by providing appropriate information and working with applicants to help them provide the necessary information to be considered for approval.

Regulatory areas’ specific answers to the question on how to incorporate a ‘yes, if...’ approach are provided in Appendix 4.

Right of review

Of the regulatory areas who said they were responsible for regulatory approvals and decision making, just over three quarters of regulatory areas (n=19) reported that their area has policies and procedures in place for internal review of decisions. Six regulatory areas indicated that they do not have internal policies and procedures in place for internal review. These regulatory areas were: *Planning & Development Approvals; Dairysafe; Native Vegetation; Food; Controlled Drugs; and Health Licensing.*



Just over half of the 25 respondents who said they were responsible for regulatory approvals (n=13) reported that guidance on their internal review process is available on their website. Twelve of the regulatory areas reported that information on external appeals processes is available on their website.

In relation to appeals of decisions, no regulatory areas reported having had more than five per cent of the decisions made by their regulatory area amended or overturned as a result of the appeals process. Eighty-four per cent of respondents (n=21) reported they had had one per cent or less of their decisions overturned, while 16% of respondents (n=4) reported that they had had between one per cent and five per cent overturned.

Category 3: Regulatory Impact Assessment / Ex-Anti Assessment

“RIA helps ensure that regulation is well-designed and effective, while avoiding unnecessary burdens on regulated entities.”

Regulatory Impact Assessments (RIAs)

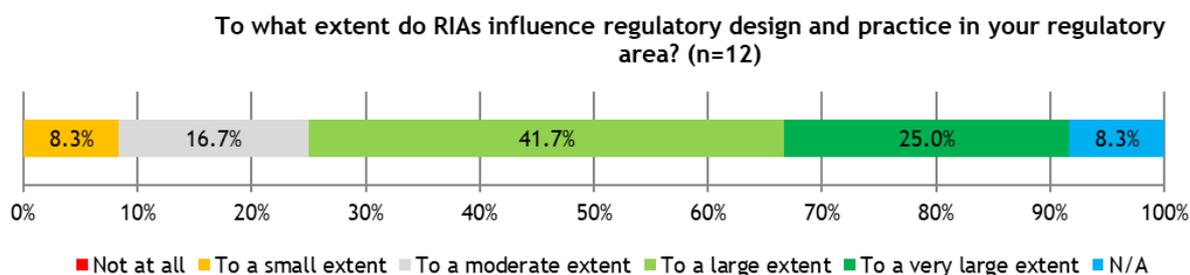
Of the 27 regulatory areas surveyed, only six said they had undertaken an RIA for new regulations in the last five years. *ESCOSA* was unique in reporting that RIAs were completed for all new regulatory proposals and decisions (but did not specify how many were completed). The *EPA* reported that they had completed six, *Water Licencing* reported they had completed a minimum of three, *Revenue SA* reported they had completed two, and both *Mineral Resources* and *Passenger Transport* reported having completed one each.

Twenty-one areas (78%) reported ‘none’ or gave a written response that indicated they had not completed any formal RIAs for new regulations in the last five years. Five regulatory areas responded that a separate agency was responsible for conducting RIAs for their regulatory area. These were: *Dairysafe* (overseen by PIRSA), the *Office of the Technical Regulator* (overseen by a separate policy group), *Revenue SA* (overseen by the Budget Analysis and Performance Branch of DTF), *Food* (used in conjunction with the regional body, Food Standards Australia and New Zealand) and *Safework SA* (used in conjunction with the national body, Safework Australia).

Three regulatory areas within the Attorney Generals’ Department (*Commercial Tenancies, Liquor & Gaming, and Fair Trading & Related Acts*) further reported that in developing changes to regulations and regulatory options for government, the impact on affected industries, sectors and the community, are assessed and outlined in Cabinet Submissions.

Effectiveness of RIA

While only six regulatory areas said they had undertaken an RIA for new regulations in the last five years, 12 regulatory areas answered the follow up questions on RIA processes. This suggests that while undertaking an RIA was somewhat rare, these regulatory areas had established policies and processes to complete an RIA. When asked about the extent to which RIA’s influence regulatory design and practice, two-thirds of these respondents (n=8) reported that RIAs influenced regulatory design and practice to a ‘large’ or ‘very large extent’. No regulatory areas reported that RIAs have had no influence at all on regulatory design and practice. Only one regulatory area (*Mineral Resources*) reported that RIAs have had only a small influence.

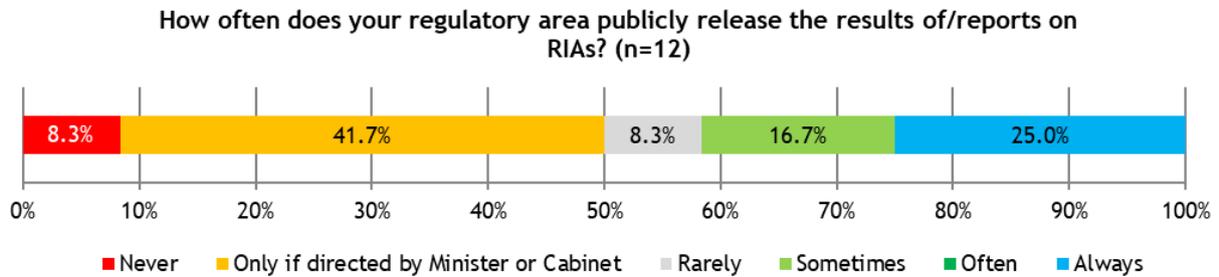


Considering the costs to business

Regulatory areas were asked whether costs to business was considered in their RIAs. All of the regulatory areas that answered this question (n=12), reported that the RIA process included consideration of costs to business.

Transparency of RIA reporting

Of the 12 regulatory areas who answered this question, one (8.3%) reported that they never publicly release the results of, or reports on RIAs, while five (41.7%) said that they only do so when directed to by the Minister or Cabinet. However, three regulatory areas (25%) reported that they always release them. Two regulatory areas (17%) reported that they sometimes release them.

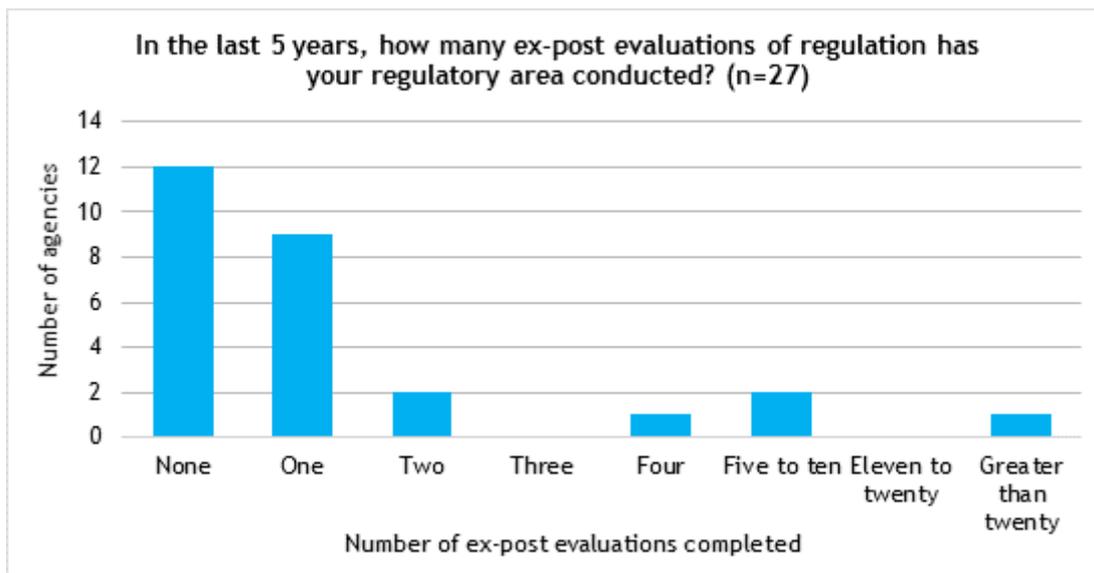


Category 4: Ex-Post Evaluation

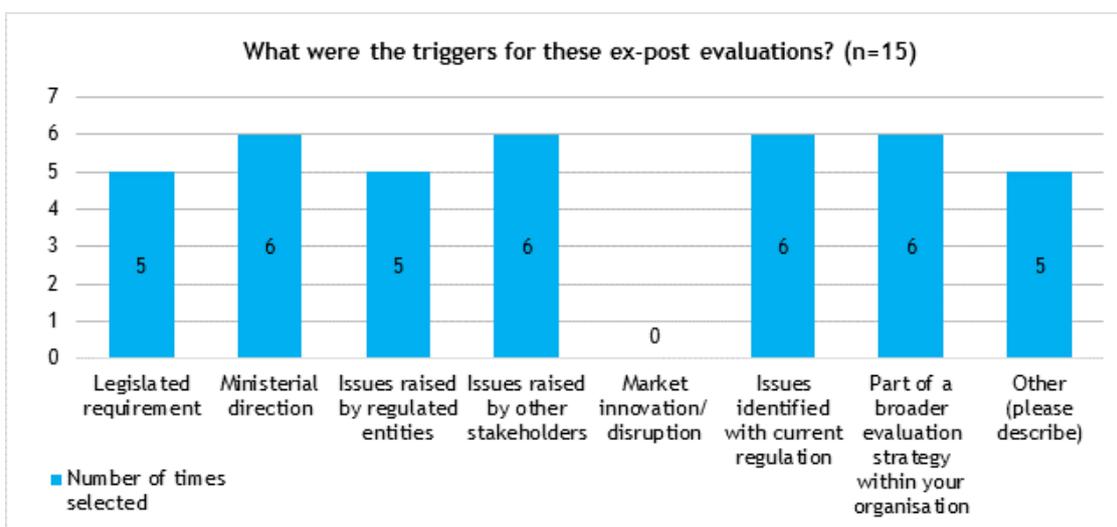
“Regular, comprehensive and transparent evaluation provides assurance that a regulation is delivering effectively on outcomes when used to improve the quality of regulation and practice.”

Evaluation of regulation and practices

When asked how many ex-post evaluations each regulatory area had conducted in the last five years, fifteen regulatory areas (56%) said they completed at least one. Twelve regulatory areas (44%) reported having conducted none at all. Of those, one regulatory area (*Dairysafe*) said that another agency was responsible for ex-post evaluations of their regulatory area (PIRSA).



Regulatory areas were then asked what the triggers were for evaluations conducted in the last five years⁴. As shown in the chart below, the most commonly selected responses were that there were ‘issues raised by other stakeholders’, ‘ministerial direction’, ‘issues identified with current regulation’ and ‘part of a broader evaluation strategy within [the] organisation’ which triggered the need for ex-post evaluations to be conducted. However, there is a reasonably consistent number of responses for the other options, with the exception of ‘market innovation/disruption’, which was not chosen at all.



⁴ There were five regulators who identified triggers for evaluations in the last five years when they had not actually done one. The responses from these areas were therefore removed from the results for this question.

Of the 12 regulatory areas that indicated they had not conducted an ex-post evaluation in the last five years, three pointed to processes that involve regular and ongoing consultation with industry and stakeholders about current regulatory arrangements, including obtaining feedback on their effectiveness. These areas were *Liquor & Gaming, Fair Trading & Related Acts*, and *Fisheries & Aquaculture*.

Examples of other triggers provided by respondents:

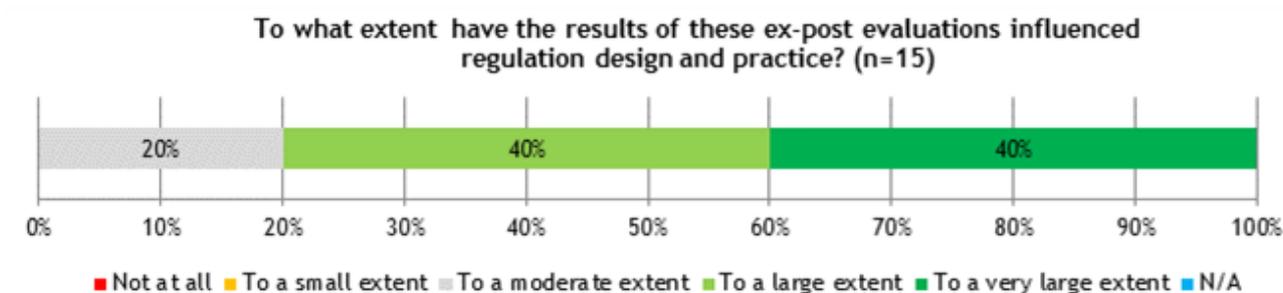
- ▶ Standard practice for major regulatory decisions (*ESCOSA*)
- ▶ Prior to the 2014 election both major parties had committed to a formal review of the Act should they be elected (*Commercial Tenancies*)
- ▶ Part of a broader evaluation strategy within our organisation (*Food*)
- ▶ Lack of funding and resources which was rectified in the 2019-20 SA State Budget (*Health and Licensing*)
- ▶ Ex-post evaluations tend to happen with peak bodies, representative groups and individual license/lease holders through processes like cost recovery and other regular or ad-hoc meetings (*Fisheries & Aquaculture*).

Transparency in reporting of ex-post evaluations

Of the 15 regulatory areas that had completed an ex-post evaluation in the last five years, 13 (87%) said that they had publicly released an evaluation. This suggests that the majority of regulatory areas that undertake ex-post evaluations publicly release their evaluation reports.

Implementing evaluation findings

Of the 15 regulatory areas that have done ex-post evaluations in the last five years, the majority (n=12, 80%) reported that those evaluations influenced regulation design and practice to a ‘large’ or ‘a very large extent’.



Category 5: Stakeholder Engagement

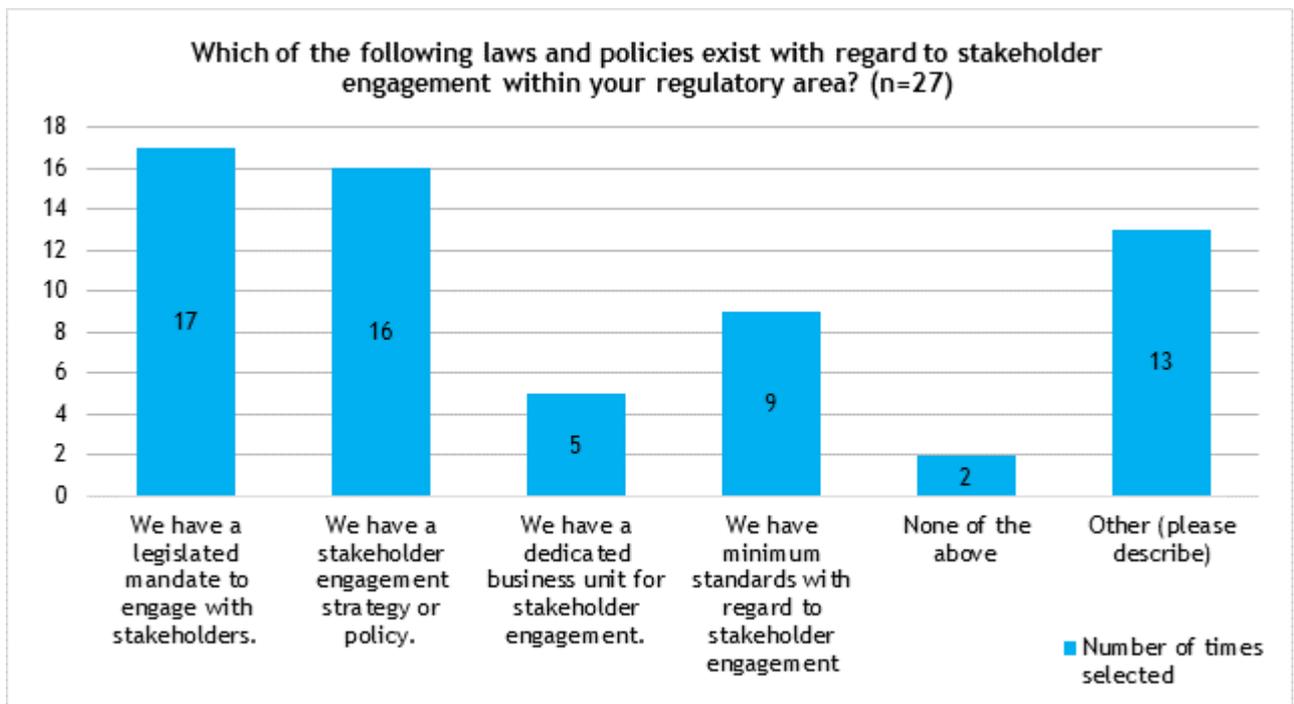
“Regulations are more effective when their design and administration are informed by views and evidence collected from a range of stakeholders, and when regulated entities have sufficient information and advice from the regulator to enable them to comply.”

Stakeholder engagement

Regulatory areas were asked about the laws and policies currently in place that govern their stakeholder engagement practices. The most common responses were that ‘we have a legislated mandate to engage with stakeholders’ (n=17, 63%) and that ‘we have a stakeholder engagement strategy or policy’ (n=16, 59%). A third of the regulatory areas reported having ‘minimum standards with regard to stakeholder engagement’ (n=9, 33%), while five (19%) said they have a dedicated business unit for this purpose. Overall, the vast majority of regulatory areas (n=25, 93%) reported having a legal obligation, policy or practice in place to undertake some form of stakeholder engagement.

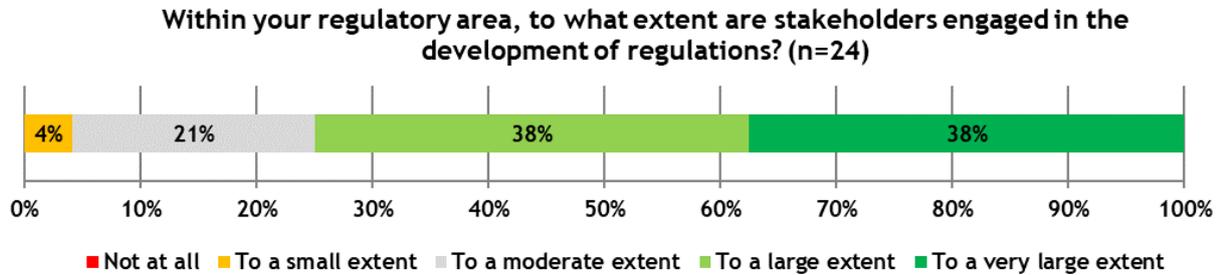
Of the 13 regulatory areas that selected ‘Other’, just over half (54%) of the examples provided related to the use of standing advisory groups and online stakeholder engagement portals. The two regulatory areas that responded ‘none of the above’ were:

- ▶ *Trade and Waste Networks*, which reported that SA Water’s dedicated Stakeholder Engagement Team are used to engage with their customers
- ▶ *Health Licensing*, which did not provide an alternative against the ‘other’ category, however, did respond below that stakeholders are engaged ‘to a large extent’ in the development of regulations.



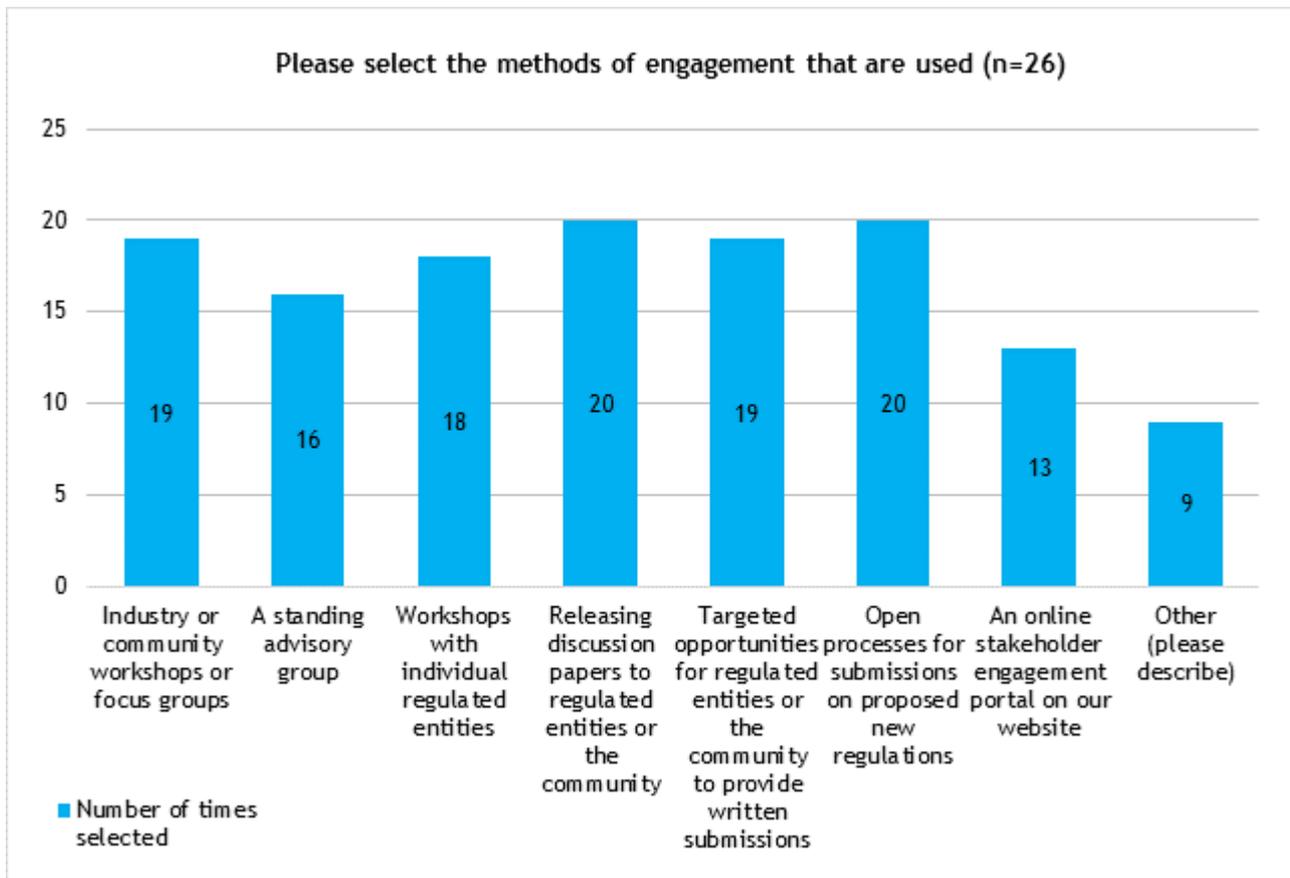
Stakeholder engagement in developing regulation

In relation to engaging stakeholders specifically for developing regulations, 89% of all regulatory areas (n=24) responded that this does occur. Over three quarters of these regulatory areas (n=18) reported that this occurs ‘to a large extent’ or ‘to a very large extent’. A further 21% (n=5) reported that stakeholders were engaged in regulation development ‘to a moderate extent’. Only one regulatory area reported that they engage stakeholders in the development of regulations to a small extent (*Return to Work SA*).



Respondents were asked to identify the methods of engagement that are used in their area’s engagement with stakeholders during the development of regulations. There was a fairly equal spread of responses received to this question, as shown in the chart below.

Examples of ‘Other’ methods provided in responses by regulatory areas include: the “Your SAY SA” website; direct engagement and communication with professional bodies and industry groups; roundtable conferences; forums and meetings; and direct mail, emails, social media and website updates. Fifty-nine per cent of all regulatory areas (n=16) reported that they seek feedback from regulated entities about the effectiveness of their stakeholder engagement practices, while 37% (n=10) said they did not seek this feedback. One regulatory area did not answer this question (*Forestry*).

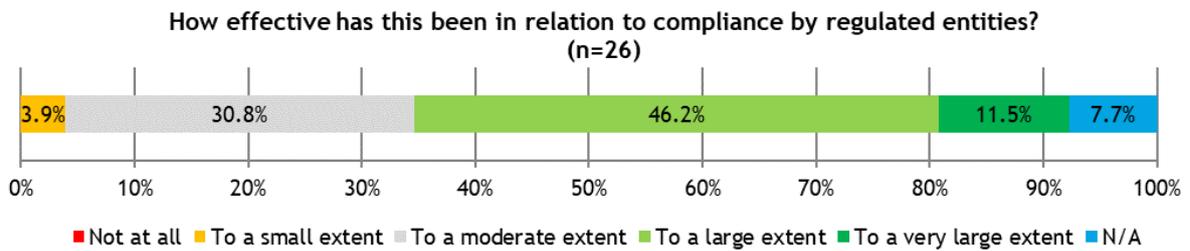


Assisting regulated entities with compliance

When asked if regulatory areas have strategies or policies in place to educate and advise regulated entities, 93% of all regulatory areas (n=25) answered yes and only one area said that it did not (*Health Licensing*). Again, one regulatory area did not answer this question (*Forestry*).

When asked how effective this engagement has been in relation to compliance by regulated entities, 58% of responses (n=15) indicated this engagement has been effective ‘to a large extent’ or ‘to a very large extent’. A further 31% of responses (n=8) reported that their engagement had been effective ‘to a moderate extent’.

Only one regulatory area reported that their engagement strategies and policies have only been effective ‘to a small extent’ in relation to compliance by regulated entities (*Rural Solutions*). One regulatory area did also not answer this question (*Forestry*).



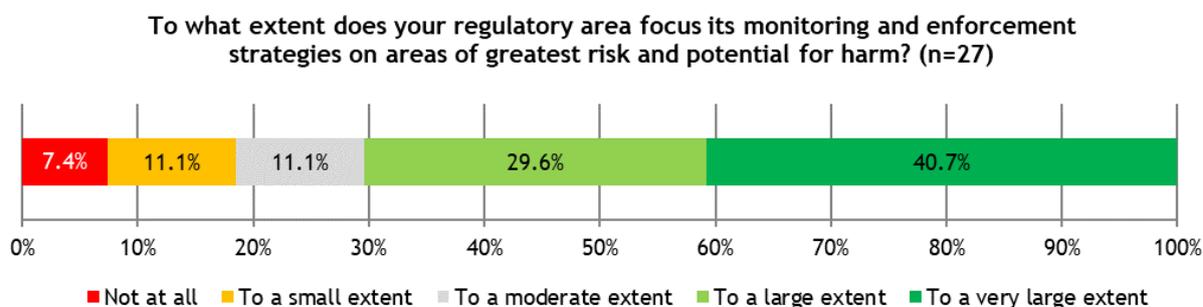
Category 6: Monitoring and Enforcement

“Regulation practice is most efficient and effective when resourcing and activities are oriented toward areas of greatest risk and potential for harm.”

Risk-based monitoring and enforcement

When asked whether they had a formalised risk assessment framework for monitoring and enforcement, 85% of all regulatory areas surveyed answered yes (n=23). Of these, just over half (n=12, 52%) said this framework was published and publicly available⁵.

In relation to the question ‘to what extent does your regulatory area focus its monitoring and enforcement strategies on areas of greatest risk and potential for harm?’, 70% (n=19) of regulatory areas reported that their strategies are focused on this ‘to a large extent’ or ‘to a very large extent’. A further 11% (n=3) of regulatory areas reported that their monitoring and enforcement strategies focus on this ‘to a moderate extent’. Two regulatory areas reported they did not do this at all (*Forestry and Agriculture, Food & Wine*).⁶

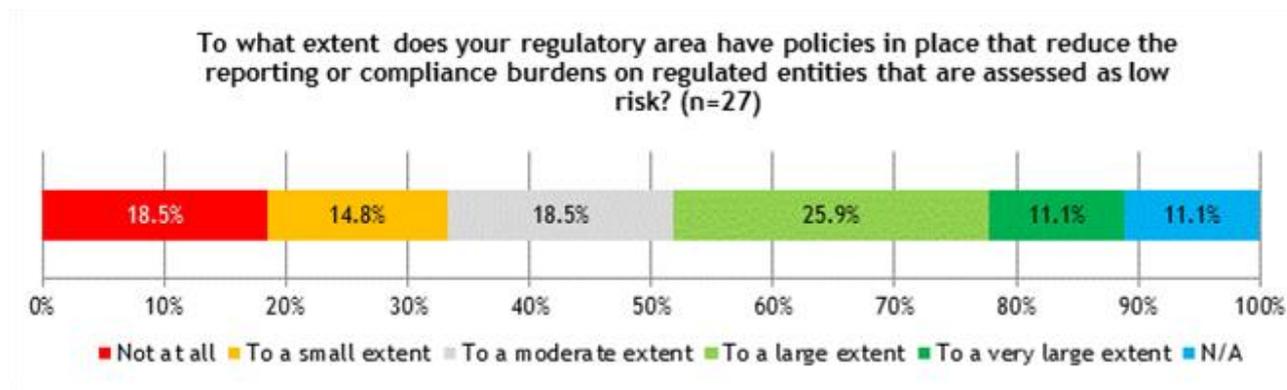


The burdens of compliance

When asked ‘to what extent does your regulatory area have policies in place that reduce the reporting or compliance burdens on regulated entities that are assessed as low risk?’, 10 regulatory areas (37%) reported that they do ‘to a large extent’ or ‘to a very large extent’. A further five regulatory areas (19%) responded that they do this ‘to a moderate extent’, while four (15%) said that they do this ‘to a small extent’.

Five regulatory areas (19%) responded that their area does not have policies in place to reduce reporting or compliance burdens on regulated entities that are assessed as low risk. These are: *Planning & Development Approvals; Controlled Drugs; Health Licensing; Agriculture, Food & Wine; and Rural Solutions*. Three regulatory areas (11%) answered ‘N/A’ to this question (*Commercial Tenancies, Native Vegetation and Forestry*).

⁵ A weakness in the survey design was that there was not a screening question to ask regulatory areas whether or not they were responsible for monitoring and enforcement. Forestry responded to these questions relating to monitoring and enforcement in the negative, however advised BDO that this is not one of its responsibilities.



Feedback from regulated entities

All 27 regulatory areas responded to the question on whether they seek feedback from regulated entities about their approach to monitoring and enforcement. Of these, 15 (56%) reported that they do seek this feedback. Nine of the areas described their approach to include regular direct engagement with industry groups and stakeholders. These examples included regular meetings, standing committees and reference groups where feedback is sought. It was noted that two of the regulatory areas also work together in relation to consulting with stakeholders (*ESCOSA* and *Office of the Technical Regulator*). Four regulatory areas noted that they conduct stakeholder/customer satisfaction surveys which are typically undertaken annually or every two years (*Dairysafe*, *Revenue SA*, *Environment Protection Authority* and *Return to Work SA*).

Of the 12 areas (44%) that responded ‘no’ to this question, no further explanation was provided as to why this feedback is not sought.

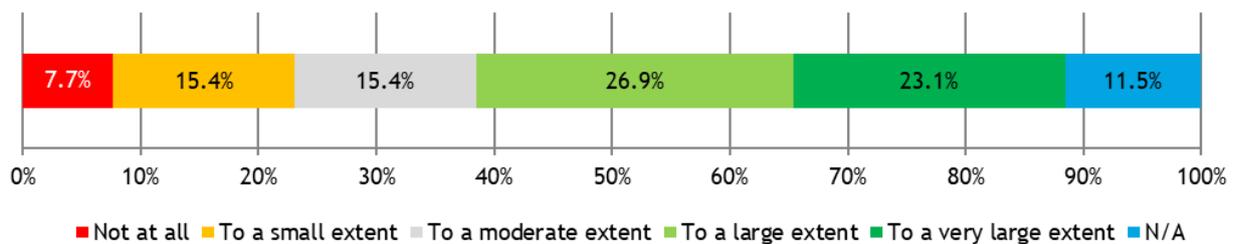
Category 7: Data Management, Information Sharing and Use of Technology

“Effective regulators collect, use and share data to inform their monitoring and enforcement operations. Businesses should not have to give unnecessary information, nor give the same piece of information twice.”

Sharing data and information

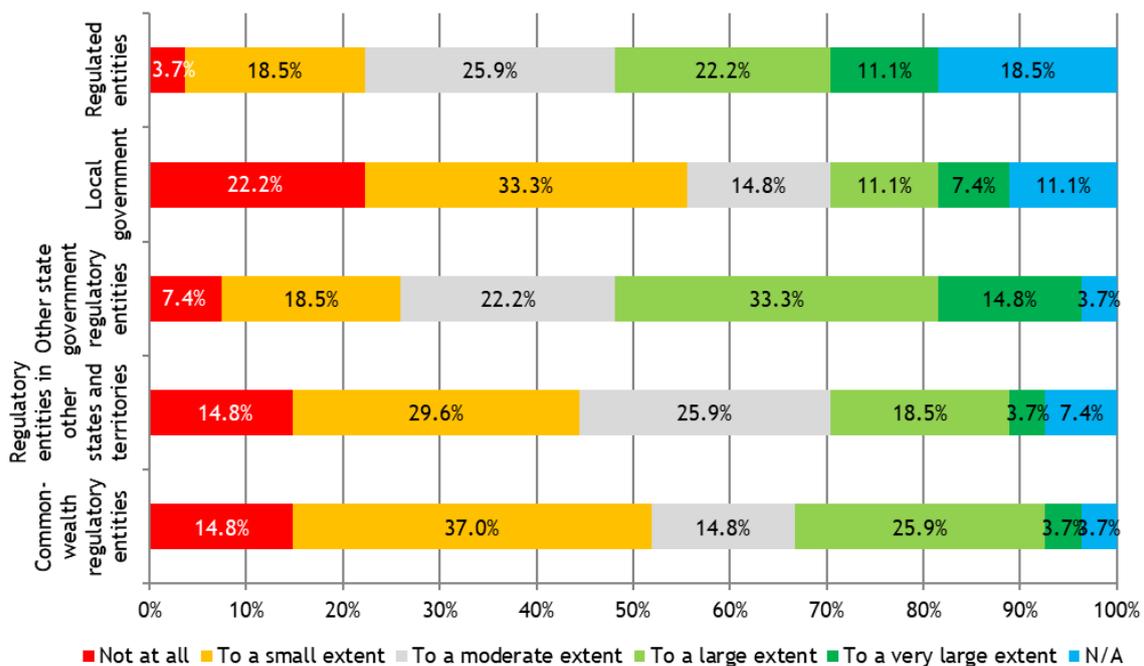
Of the 26 regulatory areas that answered the question on whether their regulatory area shares data and information about regulated entities with other areas within their agency, half of the respondents (n=13) reported that they did this ‘to a large extent’ or ‘to a very large extent’. A further four regulatory areas (15%) reported that they share data and information internally to their agency ‘to a moderate extent’. However, four regulatory areas (15%) reported they do this ‘to a small extent’ and a further two reported that they did not share data and information internally to their agency at all (8%).

How well does your regulatory area share data and information about regulated entities with other areas within your agency? (n=26)



The regulatory areas surveyed were overall most positive about how well their area shares data and information about regulated entities with other state government regulatory entities, with 48% of responses (n=13) saying they did this ‘to a large extent’ or ‘to a very large extent’.

How well does your regulatory area share data and information about regulated entities with the following... (n=27)

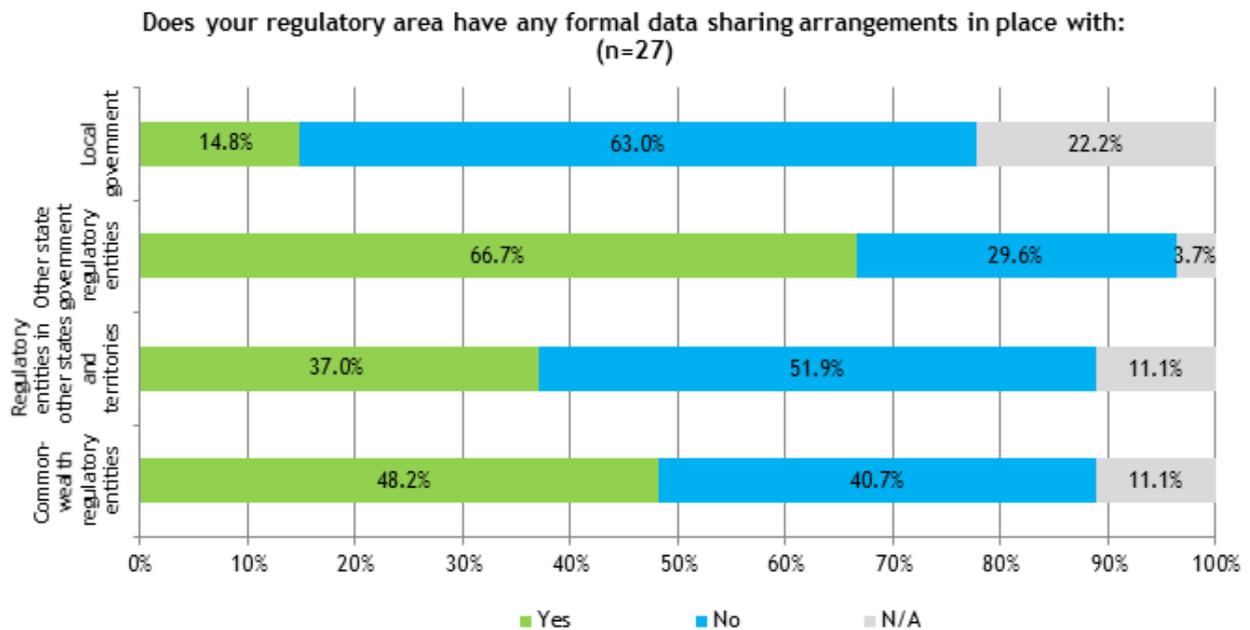


Thirty per cent of regulatory areas (n=8) also reported that they shared data and information about regulated entities with Commonwealth regulatory entities well ‘to a large extent’ or ‘to a very large extent’.

Regulatory areas were least positive about how well they share this data and information with local government, with 22% of regulatory areas (n=6) reporting that they did not do this at all with local government.

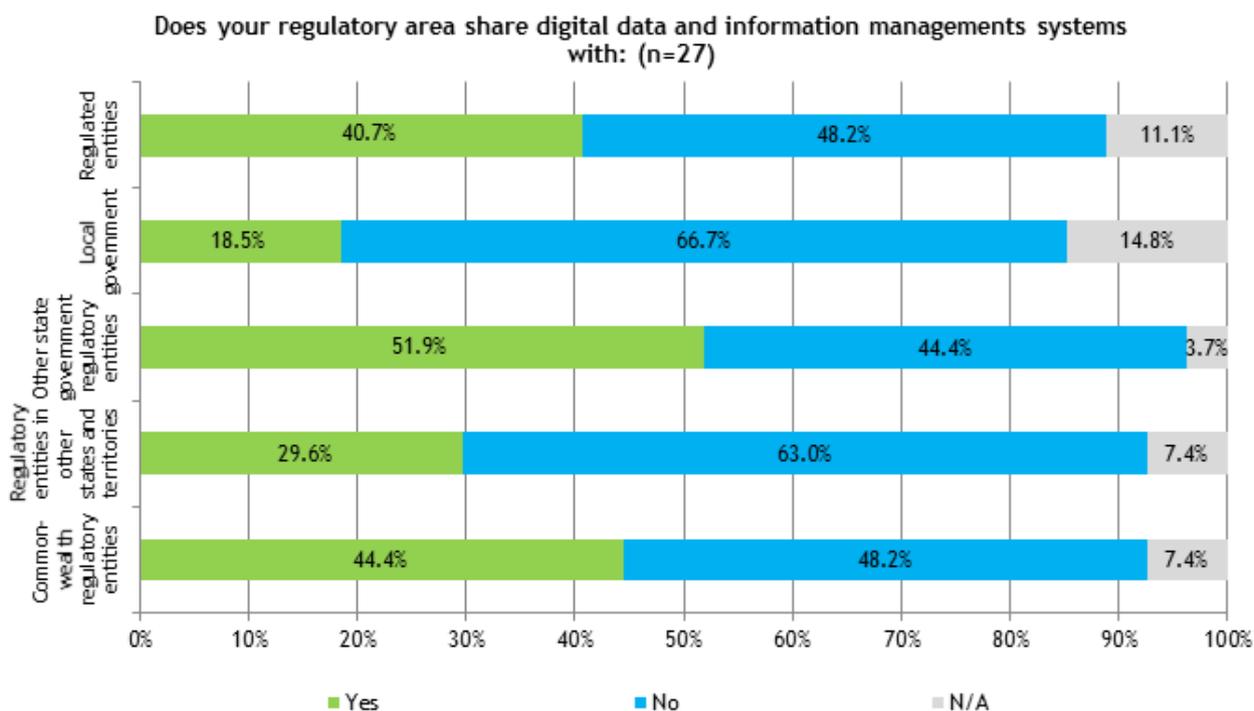
Respondents were also asked about whether their regulatory area has any formal data sharing arrangements in place with other entities. Again, the least favourable response was in relation to formal data sharing arrangements is with local government, within only four (15%) regulatory areas having such arrangements in place with local government.

Regulatory areas have the greatest number of formal data sharing arrangements in place with other state government regulatory entities, with two thirds (n=18, 67%) of regulatory areas answering yes to this question. Thirteen regulatory areas (48%) reported they have formal data sharing arrangements in place with Commonwealth regulatory entities and a further 10 regulatory areas (37%) reported that they have such arrangements in place with regulatory entities in other states and territories.

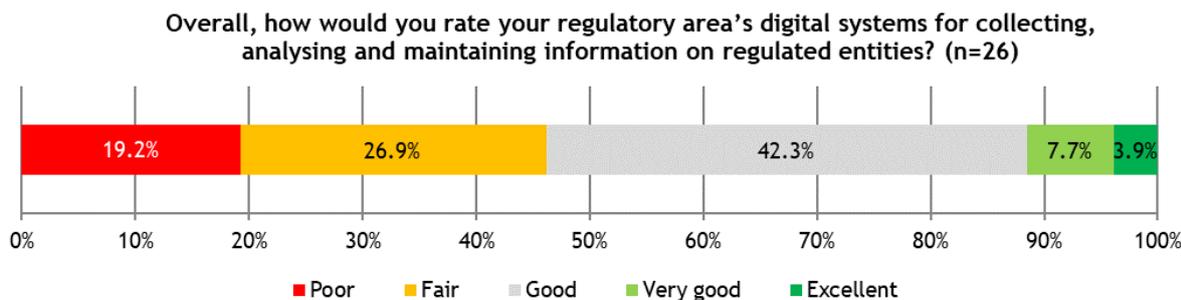


Use of Technology

All 27 of regulatory areas surveyed answered the question on whether their regulatory area shares digital data and information management systems with the same entities discussed above. Seventeen respondents (63%) stated that they shared digital data and information management systems with at least one entity. Again, they were most likely to share systems with other state government regulatory entities (n=14, 52%) and least likely to share systems with local government (n=5, 19%). The next highest positive responses were in relation to sharing digital data and related systems with other Commonwealth regulatory entities (n=12, 44%); and with regulated entities (n=11, 41%). Thirty per cent of regulatory areas (n=8) reported that they share digital data and related systems with regulatory entities in other states and territories.



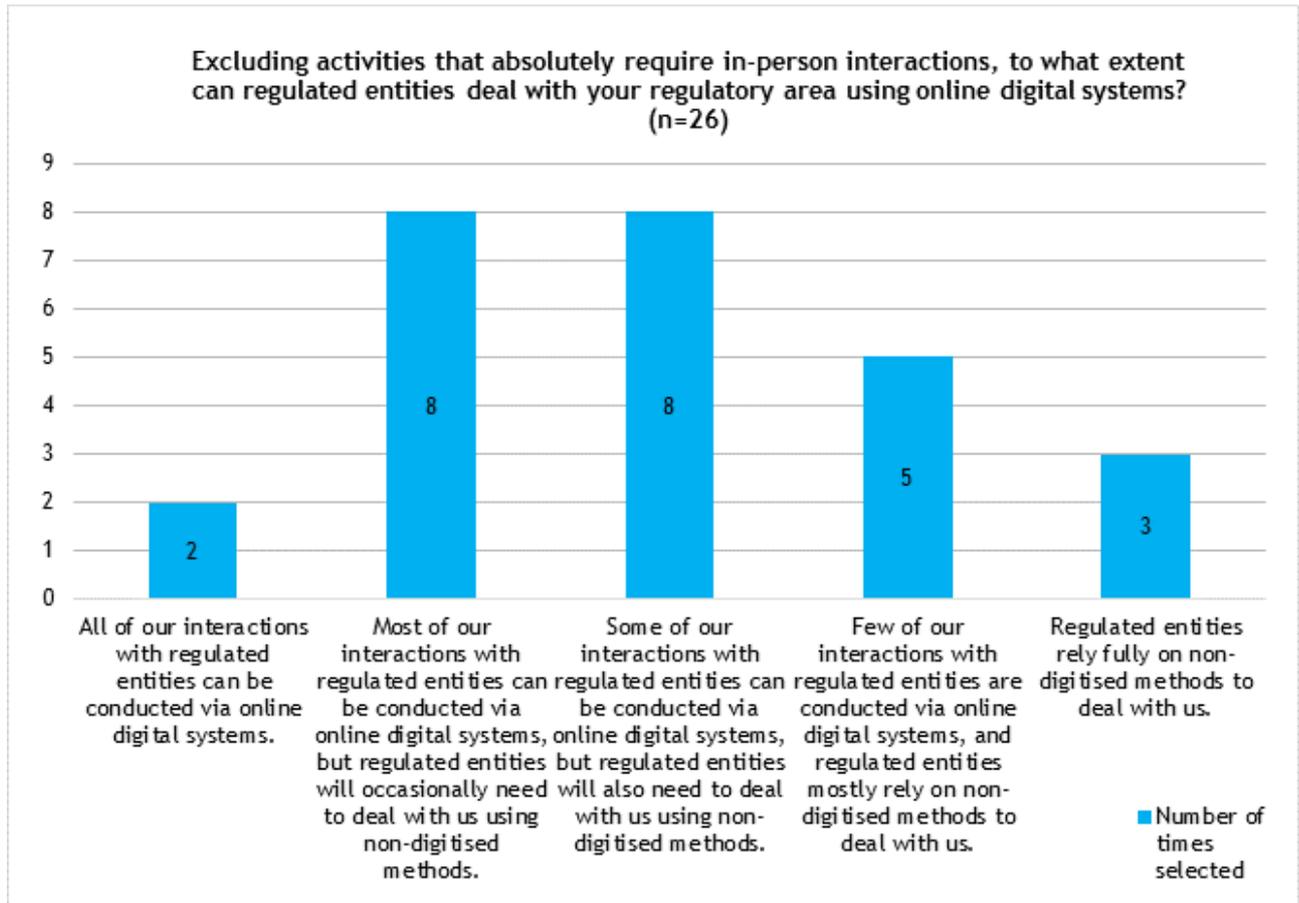
When asked how they would rate their regulatory area’s digital systems for collecting, analysing and maintaining information on regulated entities, 12 regulatory areas (46%) rated their systems as ‘poor’ or ‘fair’. Eleven regulatory areas (42%) reported that their digital systems are ‘good’. Only two regulatory areas (8%) reported their systems as being ‘very good’ (*Energy Resources* and *Trade Waste & Networks*), and only one area (*Planning & Development Approvals*) rated their systems as being ‘excellent’.



Digital interactions with regulated entities

Twenty-six regulatory areas responded to the question on the extent to which regulated entities can deal with them using online digital systems (excluding activities that absolutely require in-person interactions). Sixteen of these regulatory areas (62%) reported that at least ‘some’ or ‘most’ of their interactions with regulated entities can be conducted via online digital systems. Two regulatory areas (8%) reported that ‘all’ of their interactions with regulated entities can be conducted via online systems (*Liquor & Gaming* and *Planning & Development Approvals*). A further five regulatory areas (19%) reported that ‘few’ interactions can be conducted on-line and that regulated entities rely mostly on non-digitised methods to deal with those areas.

Three regulatory areas (12%) reported that they rely fully on non-digitised methods. These areas were *Health Protection*, *Dairysafe* and *Commercial Tennancies*. *Forestry* did not respond to this question.



Category 8: Regulator Performance Review and Continuous Improvement

“Efficient and effective regulators have mechanisms in place for continuous improvement, and actively monitor and report on their performance.”

Measuring performance in achieving regulatory objectives

Twenty-four regulatory areas answered the question on what measures or performance indicators they use to assess whether they are delivering on their objectives. A common response across regulatory areas (n=11), was to refer to their annual reports and annual regulatory reporting. However, other more specific examples were also provided with the focus of these being on measuring compliance, activity levels (e.g. in terms of number of applications processed and approved or in relation to the scale/size of regulatory decisions), stakeholder and customer feedback, customer service improvement and number of complaints. One regulatory area, *Dairysafe*, noted its Certified Regulatory Management System under ISO 9001:2015, which includes KPIs and an external audit process.

Some regulatory areas included reference to annual business or strategic plans, or listed a range of goals and objectives. However, BDO notes these business and strategic plans, and the goals and objectives in themselves, are not measures or performance indicators.

Having reviewed the written survey responses and the examples of reports provided, the measures used across regulatory areas are generally consistent and can be categorised as indicators of 1) activity, 2) compliance, 3) time frames, 4) complaints or disputes and 5) stakeholder feedback.

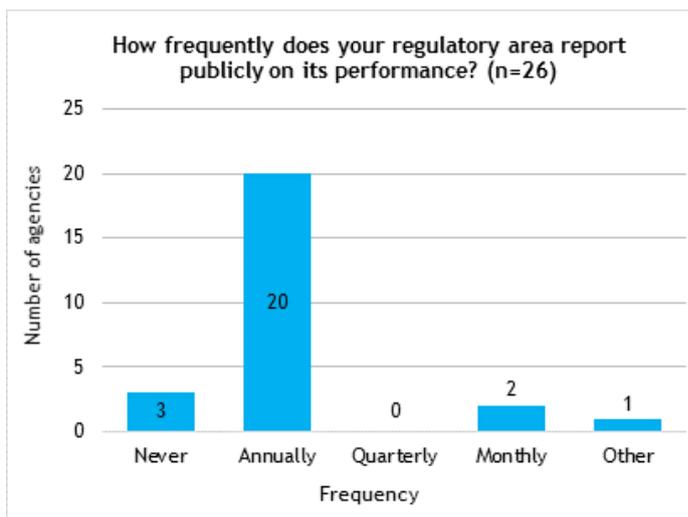
Assessing the efficiency of regulatory areas

Twenty-four regulatory areas (85%) answered the question on what measures or performance indicators they use to assess whether they are working efficiently. Of these responses, six regulatory areas (25%) referred to their previous response related to measures assessing delivery of their objectives.

Use of quantitative measures (KPIs) was the most common method of measuring efficiency across the regulatory areas, with these typically measuring activity in terms of volume and time to undertake various activities. Two regulatory areas (*Biosecurity SA* and *Planning & Development Approvals*) noted the existence of internal and external audits or reviews of data, processes and reporting in relation to measuring their efficiency. A further two regulatory areas (*Health Protection* and *Mineral Resources*) included benchmarking with other jurisdictions as part of assessing their efficiency, including with reference to a global survey of regulatory jurisdictions (*Mineral Resources*). One regulatory area (*Energy Resources*) referenced head count and expenditure in terms of the level of regulated activities, as a measure of efficiency.

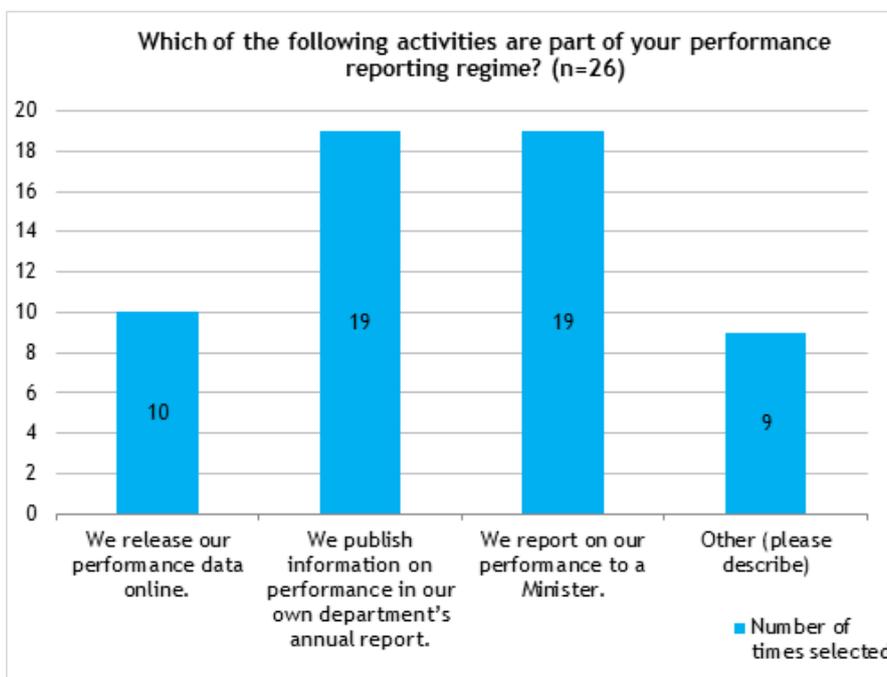
Frequency and transparency in performance reporting

Twenty-six regulatory areas answered the question on the frequency of performance reporting. The majority of these areas (n=20, 77%) responded that they report publicly on their performance annually. Two regulatory areas noted that they report publicly on their performance monthly, while one area (*Biosecurity SA*) responded ‘Other’ but did not define the frequency. Three regulatory areas reported that they never report publicly on their performance (*Controlled Drugs*, *Health Licensing*, and *Training & Apprenticeship Services*).



Regulatory areas were asked to respond to a list of activities which may be part of their performance reporting regime and all but one area answered this question (*Forestry*). The most common responses were 1) publishing information about performance in their own department’s annual report (n=19) and 2) reporting on their performance to a minister (n=19); with 58% of respondents (n=15) noting they undertook both of these activities.

Thirty-eight per cent of respondents (n=10) further noted that they release performance data online while 31% of respondents (n=8) report to an external auditor or other scrutinising body. Twenty-seven per cent of respondents (n=7) report on performance to a governing board and 23% of respondents (n=6) publish a separate report on the performance of their regulatory area. Fifteen per cent of respondents (n=4) provide performance information to a lead department which is included in its annual report. The top four responses are shown in the graph below.



Examples of other reporting activities provided in responses included: reporting “to industry and media as requested” (*Passenger Transport*), through “national reporting systems” (*Biosecurity SA*), “reporting under Primary Industries Funding Schemes” (*Agriculture, Food & Wine*), reporting through an “annual compliance report tabled in Parliament each year” (*Energy Resources*) and reporting via the “Health Protection and Licensing Services Action Plan” (*Health Licensing*).

Continuous improvement

The vast majority of regulatory areas advised that they have strategies in place for continuous improvement (n=25, 93%). In describing these strategies, the most common responses provided by regulatory areas were: 1) as a standard part of their normal business processes (n=11); 2) internal and external reviews (n=13); and 3) as part of the business planning and/or strategic planning processes (n=8). Other specific examples included:

- ▶ reference to an ISO certified regulatory management system (*Dairysafe*)
- ▶ ‘lean reviews’ and ‘lean thinking’ (*Mineral Resources, Safework SA, Environment Protection Authority and Return to Work SA*)
- ▶ benchmarking against other agencies and considering recommendations made for other agencies (*Liquor & Gaming, Fair Trading & Related Acts and Fisheries & Aquaculture*)
- ▶ a business improvement framework to reduce enterprise risk (*Training & Apprenticeship Services*).

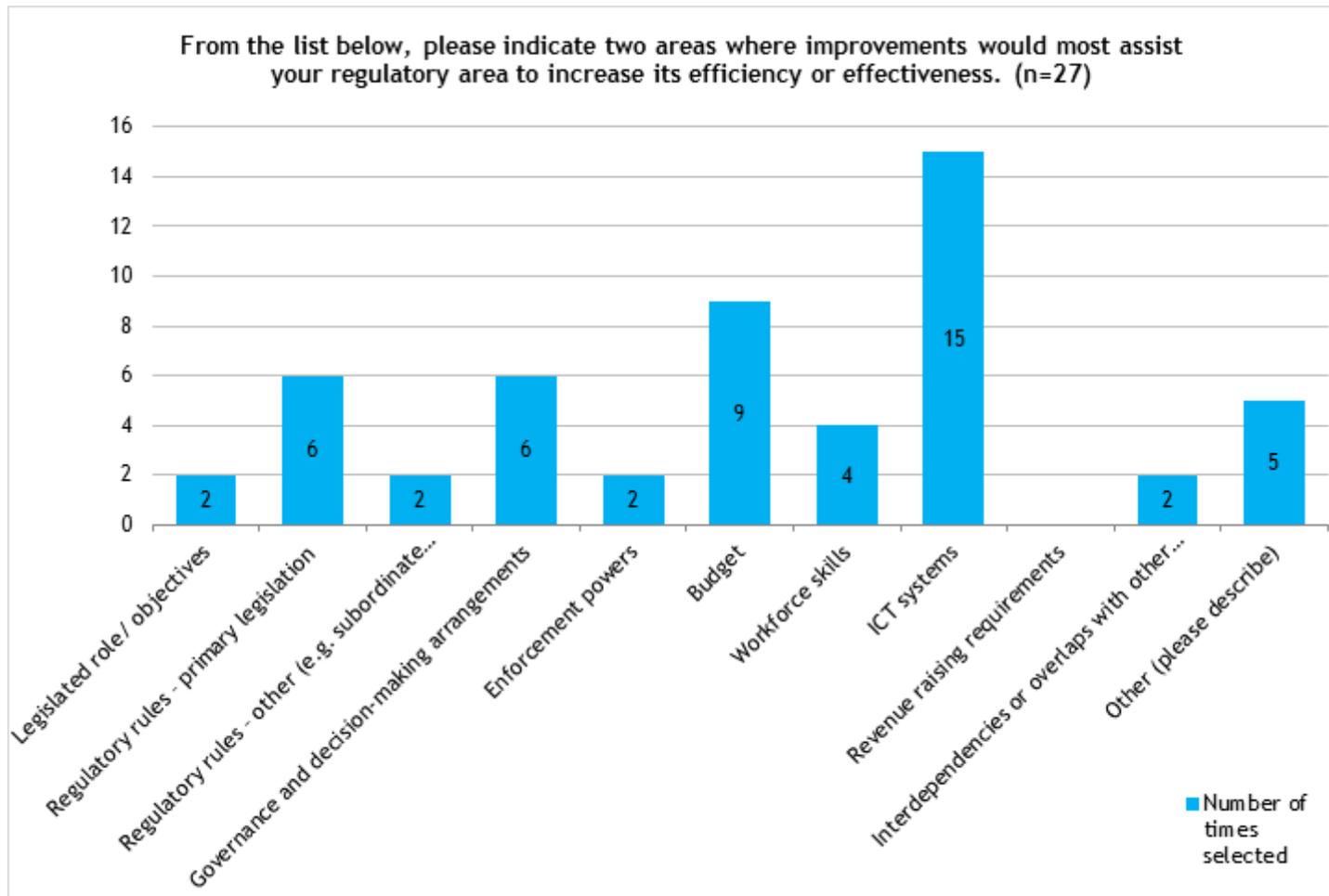
Only one regulatory area reported that they did not have a strategy for continuous improvement (*Controlled Drugs*); however, no explanation was provided as to why. One regulatory area did not respond to this question (*Forestry*).

Priority improvements to increase efficiency and effectiveness

When asked to identify two areas where improvements would most assist regulatory areas to increase their efficiency or effectiveness, the most common response selected was ‘ICT systems’ (n=15, 56%). The second most common response was ‘budget’, selected by nine regulatory areas (33%). The equal-third most common responses were ‘regulatory rules - primary legislation’ and ‘governance and decision making arrangements’ (n=6, 22%, for each).

The focus on ICT as a priority area for improvement is consistent with responses elsewhere in the survey, which indicated that data management and digital systems are particularly weak among some regulatory areas. This suggests that enhancing digital systems would be important for improving regulator efficiency and effectiveness in SA⁷.

⁷ Refer to the previous discussions on this topic under ‘Category 2: Approvals and Decision Making’ and ‘Category 7: Data Management, Information Sharing and Use of Technology’.



APPENDIX 1: REGULATORY AREAS PARTICIPATING IN THE SURVEY

The following list identifies the 27 regulatory areas across 13 SA government departments, independent statutory authorities and other State entities which participated in the survey:

Attorney General

- ▶ Liquor & Gaming (1)
- ▶ Fair trading & related Acts (2)
- ▶ Planning & development approvals (3)
- ▶ Commercial tenancies (4)

Dairysafe (5)

Department for Environment and Water

- ▶ Water Licensing (6)
- ▶ Native Vegetation (7)

Department for Health and Wellbeing

- ▶ Food (8)
- ▶ Controlled Drugs (9)
- ▶ Health Protection (10)
- ▶ Health Licensing (11)

Department for Industry and Skills

- ▶ Training & Apprenticeship Services (12)

Department for Infrastructure & Transport

- ▶ Passenger transport (13)

Department for Mining and Energy

- ▶ Energy resources (14)
- ▶ Office of the Technical Regulator (15)
- ▶ Mineral resources (16)

Department for Primary Industries and Regions SA

- ▶ Biosecurity SA (17)
- ▶ Fisheries & Aquaculture (18)
- ▶ Agriculture, Food & Wine (19)
- ▶ Forestry (20)
- ▶ Rural Solutions SA (21)

Department for Treasury and Finance

- ▶ Safework SA (22)
- ▶ Revenue SA (23)

Environment Protection Authority (24)

Essential Services Commission of South Australia (ESCOSA) (25)

Return to Work SA (26)

SA Water

▶ Trade waste and Networks (27)

APPENDIX 2: SURVEY QUESTIONS

Category 1: Legal Structure and Regulatory Powers

1. How well does your area co-ordinate with the following entities to achieve regulatory outcomes?
 - ▶ Local government
 - ▶ Other state government regulatory entities
 - ▶ Regulatory entities in other states and territories
 - ▶ Commonwealth regulatory entities
2. Are there any overlapping responsibilities that cause inefficiency, between your regulatory area and:
 - ▶ Local government
 - ▶ Other state government regulatory entities
 - ▶ Regulatory entities in other states and territories
 - ▶ Commonwealth regulatory entities
3. To what extent have issues arisen within your regulatory area because of a lack of clarity within your regulatory area about its role or objectives?
4. To what extent have issues arisen within your regulatory area because of insufficient or inappropriate regulatory powers to deliver effectively on outcomes?

Category 2: Approvals and Decision Making

5. Is your regulatory area responsible for regulatory approvals (e.g. approving licencing and registrations, business projects or other business-related activities)? Yes / No
6. Does your regulatory area have target timeframes for key approval processes? (Yes/ No/ N/A)
7. Over the last 5 years, which of the following best describes your regulatory area's overall performance on the timeliness of key approval processes:
 - ▶ Significantly improved
 - ▶ Somewhat improved
 - ▶ Not changed
 - ▶ Somewhat declined
 - ▶ Significantly declined
 - ▶ Don't know
8. In your regulatory area, which of the following are 'standard' ways of engaging with prospective applicants and providing advice and assistance throughout an application process?
 - ▶ Providing written guidance materials
 - ▶ Providing public information on eligibility requirements/criteria
 - ▶ Incorporating prefilled information in electronic forms
 - ▶ Accepting pre-existing information held by other business units within your organisation
 - ▶ Accepting pre-existing information held by other regulators
 - ▶ Providing more than one option/pathway to meet certain requirements
 - ▶ Providing a variety of consultation platforms to answer questions (in person, online virtual assistant, email, phone)
 - ▶ Providing reasons for any additional requests for information
 - ▶ Providing explanations for why a process exists
 - ▶ Automated updates at each stage in a process or at each milestone
 - ▶ Online ability to check processing times or status of an application

- ▶ Providing pre-approvals
 - ▶ Providing electronic approvals/certificates
 - ▶ Providing feedback on the rationale for a decision
 - ▶ Other (please describe)
9. What else should be done for your area to better adopt a 'yes, if...' rather than a 'no, because...' approach to regulatory practice?
10. From the list below, what two actions would most likely deliver the greatest increase in the efficiency and timeliness of approval and decision-making processes within your regulatory area?
- ▶ Better use of online and digital systems
 - ▶ Better data collection and management systems
 - ▶ More efficient information sharing between SA government agencies
 - ▶ Making application processes simpler and easier
 - ▶ Better engagement processes with regulated entities or impacted parties
 - ▶ Other - please describe
11. Does your regulatory area have policies and procedures in place for internal review of decisions? Yes/ No
12. Is guidance on your internal review process available on your website? No/ Yes - please provide the link
13. Are policies and procedures for external appeals processes available on your website? No/ Yes - please provide the link
14. In the last 5 years, what proportion of decisions made by your regulatory area have been amended or overturned as a result of an appeals process?
- ▶ 1% or less
 - ▶ Greater than 1% and up to 5%
 - ▶ Greater than 5% and up to 10%
 - ▶ Greater than 10% and up to 20%
 - ▶ Greater than 20%

Category 3: Regulatory Impact Assessments (RIA)

15. In the last 5 years, how many Regulatory Impact Assessments (RIA) has your regulatory area completed for new regulations? None/ Please enter the number below
16. Is a separate agency responsible for conducting Regulatory Impact Assessments for your regulatory area? No/ Yes - please provide the name of the separate agency(s)
17. Does your area's RIA process include an assessment of benefits and costs to business? Yes/ No
18. Does your area's RIA process include consideration of the economic benefit or costs of a regulatory change (e.g. impact on investment, innovation or jobs creation)? Yes/ No
19. To what extent do RIAs influence regulatory design and practice in your regulatory area?
20. How often does your regulatory area publicly release the results of/reports on RIAs?
- ▶ Never
 - ▶ Only if directed by Minister or Cabinet
 - ▶ Rarely
 - ▶ Sometimes
 - ▶ Often
 - ▶ Always

Category 4: Ex-Post Evaluation

21. In the last 5 years, how many ex-post evaluations of regulation has your regulatory area conducted? None/ Please enter the number below
22. Is a separate agency responsible for conducting evaluations for your regulatory area? Yes/ No
23. What were the triggers for these ex-post evaluations?
 - ▶ Legislated requirement
 - ▶ Ministerial direction
 - ▶ Issues raised by regulated entities
 - ▶ Issues raised by other stakeholders (e.g. consumers, peak bodies, government agencies).
 - ▶ Market innovation/ disruption
 - ▶ Issues identified with current regulation
 - ▶ Part of a broader evaluation strategy within your organisation
 - ▶ Other (please describe)
24. How many of these ex-post evaluations were publicly released?
25. To what extent have the results of these ex-post evaluations influenced regulation design and practice?

Category 5: Stakeholder Engagement

26. Which of the following laws and policies exist with regard to stakeholder engagement within your regulatory area? Select as many as apply.
 - ▶ We have a legislated mandate to engage with stakeholders.
 - ▶ We have a stakeholder engagement strategy or policy.
 - ▶ We have a dedicated business unit for stakeholder engagement.
 - ▶ We have minimum standards with regard to stakeholder engagement (e.g. minimum time period for engagement, methods of engagement, which stakeholders must be consulted, etc).
 - ▶ None of the above
 - ▶ Other (please describe)
 27. Within your regulatory area, to what extent are stakeholders engaged in the development of regulations?
 28. If applicable, please select the forms of engagement that are used:
 - ▶ Industry or community workshops or focus groups
 - ▶ A standing advisory group
 - ▶ Workshops with individual regulated entities
 - ▶ Releasing discussion papers to regulated entities or the community
 - ▶ Targeted opportunities for regulated entities or the community to provide written submissions
 - ▶ Open processes for submissions on proposed new regulations
 - ▶ An online stakeholder engagement portal on our website
 - ▶ Other (please describe)
 29. Does your regulatory area seek feedback from regulated entities about the effectiveness of its stakeholder engagement? Yes/ No
 30. Does your regulatory area have strategies or policies in place to educate and advise regulated entities about their obligations and to help them comply? Yes/ No
 31. How effective has this been in relation to compliance by regulated entities?
-

Category 6: Monitoring and Enforcement

32. Does your regulatory area have a formalised risk assessment framework with respect to monitoring and enforcement? Yes/ No
33. Is this framework published and publicly available? No/ Yes - please provide the link
34. To what extent does your regulatory area focus its monitoring and enforcement strategies on areas of greatest risk and potential for harm?
35. To what extent does your regulatory area have policies in place that reduce the reporting or compliance burdens on regulated entities that are assessed as low risk?
36. Does your regulatory area seek feedback from regulated entities about its approach to monitoring and enforcement? No/ Yes - please describe

Category 7: Data Management, Information Sharing and Use of Technology

37. How well does your regulatory area share data and information about regulated entities with other areas within your agency?
38. How well does your regulatory area share data and information about regulated entities with the following...
 - ▶ Regulated entities
 - ▶ Local government
 - ▶ Other state government regulatory entities
 - ▶ Regulatory entities in other states and territories
 - ▶ Commonwealth regulatory entities
39. Does your regulatory area have any formal data sharing arrangements in place with:
 - ▶ Local government
 - ▶ Other state government regulatory entities
 - ▶ Regulatory entities in other states and territories
 - ▶ Commonwealth regulatory entities
40. Does your regulatory area share digital data and information managements systems with:
 - ▶ Regulated entities
 - ▶ Local government
 - ▶ Other state government regulatory entities
 - ▶ Regulatory entities in other states and territories
 - ▶ Commonwealth regulatory entities
41. Overall, how would you rate your regulatory area's digital systems for collecting, analysing and maintaining information on regulated entities?
42. Excluding activities that absolutely require in-person interactions, to what extent can regulated entities deal with your regulatory area using online digital systems?
 - ▶ All of our interactions with regulated entities can be conducted via online digital systems.
 - ▶ Most of our interactions with regulated entities can be conducted via online digital systems, but regulated entities will occasionally need to deal with us using non-digitised methods.
 - ▶ Some of our interactions with regulated entities can be conducted via online digital systems, but regulated entities will also need to deal with us using non-digitised methods.
 - ▶ Few of our interactions with regulated entities are conducted via online digital systems, and regulated entities mostly rely on non-digitised methods to deal with us.
 - ▶ Regulated entities rely fully on non-digitised methods to deal with us.

Category 8: Regulator Performance Review and Continuous Improvement

43. What measures or performance indicators does your regulatory area use to assess whether it is delivering on its objectives?
44. What measures or performance indicators does your regulatory area use to assess whether it is working efficiently?
45. How frequently does your regulatory area report publicly on its performance?
 - ▶ Never
 - ▶ Monthly
 - ▶ Quarterly
 - ▶ Annually
 - ▶ Other
46. Which of the following activities are part of your performance reporting regime?
 - ▶ We release our performance data online.
 - ▶ We publish information on performance in our own department's annual report.
 - ▶ We provide performance information to a lead department, which is incorporated into their annual report.
 - ▶ We publish a separate report on the performance of our regulatory area.
 - ▶ We report on our performance to a governing board.
 - ▶ We report on our performance to an external auditor or other scrutinising body.
 - ▶ We report on our performance to a Minister.
 - ▶ Other (please describe)
47. Does your regulatory area have strategies in place for continuous improvement? No/ Yes - please describe these strategies for continuous improvement.
48. From the list below, please indicate two areas where improvements would most assist your regulatory area to increase its efficiency and effectiveness.
 - ▶ Legislated role/ objectives
 - ▶ Regulatory rules - primary legislation
 - ▶ Regulatory rules - other (e.g. subordinate legislation, quasi-legislation, regulatory policy)
 - ▶ Governance and decision-making arrangements
 - ▶ Enforcement powers
 - ▶ Budget
 - ▶ Workforce skills
 - ▶ ICT systems
 - ▶ Revenue raising requirements
 - ▶ Interdependencies or overlaps with other regulators
 - ▶ Other (please describe)

APPENDIX 3: REGULATORY ISSUES FOR FURTHER INVESTIGATION

From review and analysis of survey responses and supplementary information provided by regulatory areas, BDO has identified several issues that regulators have raised as requiring reform, which predominantly relate to their legal structure and regulatory powers. The SAPC may wish to further investigate these matters, with a view to improving SA's regulatory framework. These are set out in the table below.

Regulatory issues for further investigation	
Legal Structure and Regulatory Powers	
<p>Are there any overlapping responsibilities that cause inefficiency, between your regulatory area and:</p> <p>Other state government regulatory areas?</p>	<ul style="list-style-type: none"> ▶ <i>Consumer and Business Services</i> (CBS) has highlighted an opportunity to improve information sharing and to have a single entry point for government in relation to multiple regulators for a particular industry or sector (i.e. licensing and registration of building work contractors and licensing and issuing of safety registrations and permits; licensing and registration of plumbers, gas fitters and electricians and ensuring compliance with technical installation and safety; licensing and registration of security and investigation agents and the regulation of the tattoo industry and in relation to SAPOL compliance and enforcement). ▶ <i>Energy Resources</i> has noted cases in relation to environmental regulation where the same thing is being addressed under both the <i>Petroleum and Geothermal Energy Act 2000</i> and the <i>Environmental Protection Act</i> and that often this can lead to unnecessary regulatory duplication. ▶ <i>Mineral Resources</i> has also noted some regulatory overlap with Private Mine Legislation under the <i>Mining Act</i> and the <i>Environmental Protection Act</i>; and overlap with major project applications (DIT) in relation to extractive material pre-qualification. ▶ <i>Biosecurity SA</i> reported that more clarity of role is needed with DEW in relation to animal welfare and wildlife management. ▶ <i>Fisheries & Aquaculture</i> reported examples of duplication in environmental assessments through the development approval process with DIT (issuing aquaculture leases, licenses) and DEW with regards to national park boundaries overlapping Aquaculture leases. It was noted there are regulatory challenges that are yet to be overcome (e.g. Ceduna zone policy overlap with National Parks and Wildlife Act). ▶ <i>Native Vegetation</i> reported the issue of who takes the lead with loss of marine vegetation as an area that needs resolving with the EPA. ▶ <i>Training & Apprenticeship Services</i> reported that there is potentially an inefficient overlap around workplace supervision and safety (Safework SA) and complaints and disputes between employers and trainees or apprentices (SA Skills Commission).

Regulatory issues for further investigation	
Regulatory entities in other states or territories?	<ul style="list-style-type: none"> ▶ <i>Controlled Drugs</i> has noted an example of inefficient overlap with interstate regulatory entities in relation to cross-border regulation of prescription monitoring (of prescribers and patients) and transport. This issue includes ownership of the data and who is the responsible regulatory authority. ▶ <i>Passenger Transport</i> reported inefficiency in relation to the National Exchange of Vehicle and Driver Information System (NEVDIS) with respect to driver's license data etc. and that there is no communication and delays between IT systems.
Commonwealth regulatory entities?	<ul style="list-style-type: none"> ▶ CBS reported an opportunity to remove duplication and overlap between the Australian Taxation Office (ATO) excise license to produce alcohol and CBS' liquor licensing requirements. CBS is currently working with the Commonwealth Deregulation Taskforce as part of the Department of Prime Minister and Cabinet to identify these opportunities to improve inefficiencies. ▶ <i>Rural Solutions SA</i> have identified an opportunity through potential legislative changes, to better integrate current multiple approval processes related to carbon farming projects, which are approved by the Commonwealth regulator but which has complications associated where pastoral leases are involved due to different Ministerial responsibility in South Australia as compared with Crown Lands. ▶ <i>Fisheries & Aquaculture</i> have reported an opportunity to improve biosecurity management between jurisdictions and the Commonwealth and the management of shark and finfish between states and the Commonwealth. ▶ The <i>Environment Protection Authority</i> (EPA) has highlighted an issue related to uranium mining (and non-uranium mining projects with naturally occurring radioactive material requiring disposal) which is currently creating a requirement for joint assessments under both state and commonwealth legislation, when in the EPA's view, the environmental impacts are no different from other forms of mining. The EPA has been advocating for removal of the uranium mining and milling component from the scope of the nuclear action trigger in the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (EPBC Act). Alternatively the EPA is suggesting state based assessments could be accredited under the EPBC Act, based on agreed standards. ▶ <i>Training & Apprenticeship Services</i> have noted potential overlap with Australian Skills Quality Authority (ASQA) regarding Registered Training Organisations (e.g. provider quality).
To what extent have issues arisen within your regulatory area because of a lack of clarity within your regulatory areas about its role or objectives?	<ul style="list-style-type: none"> ▶ <i>Revenue SA</i> reported that it has experienced some inefficiencies due to the lack of clarity on the need for nationally consistent policy and eligibility criteria in relation to administration of the Commonwealth's Home Builder Grant. ▶ The <i>Office of the Technical Regulator</i> as listed Worker licensing and Work Health Safety as an example of an issue. This could be

Regulatory issues for further investigation	
	<p>further investigated to understand the nature of the issue, as no further details are provided within the survey response.</p> <ul style="list-style-type: none"> ▶ <i>Mineral Resources</i> noted that there are some inconsistencies across the mineral resources section (e.g. boundary issues, encroachment, transport etc.) which could also be further investigated to understand the issue and if there is an opportunity to improve.
To what extent have issues arisen within your regulatory area because of insufficient or inappropriate regulatory powers to deliver on outcomes?	<ul style="list-style-type: none"> ▶ <i>Controlled Drugs</i> has noted that for controlled substances, the regulatory powers available are not proportionate to the offences, are not risk-based and do not address the harms intended to be mitigated (i.e. the powers are too large or too small). Some expiations were introduced in late 2020 to provide some proportionate regulatory powers, however this is only for five specified offences. ▶ The <i>Food</i> regulatory area has reported that prosecution is the only available regulatory power for recourse for non-compliant food labels, which is too severe for the large majority of labelling infringements. ▶ The <i>Food</i> regulatory area also cited an inability to regulate primary food production under the SA Food Act 2001, including high-risk horticulture activities which are not covered by the SA Primary Production (Food Safety Schemes) Act 2004. ▶ <i>Health Protection</i> has identified an issue in relation to regulation of public health standards for tattooists and hairdressers (as examples) which is currently managed through guidelines, where the Social Development Committee (SDC) and local councils, have expressed a view that these matters would be better and more efficiently dealt with through explicit regulation (rather than enforceable guidelines). The response provided by <i>Health Protection</i> notes the Minister for Health and Wellbeing has committed to exploring the recommendations provided a the SDC's review of the <i>SA Public Health Act 2011</i>, that relate to circumstances of this example and other public health issues that can be dealt with through various policy options (i.e. guidelines/public health policies/regulations etc.). ▶ <i>Passenger Transport</i> has responded that its current Act does not allow for new business models and the innovation that is occurring in the passenger transport section. ▶ The EPA has noted in its response that regarding emergency provisions under the EP Act, on occasion the decision to make allowances for business to undertake activities outside of their normal authorisations can be untimely. For instance in COVID lockdowns, fire and floods it would be good to be able to have pre-emptive provisions in the EP Act to allow the EPA to be able to vary authorisations for emergency situations (i.e. with a time limit for the period of emergency and recovery). ▶ <i>Health Licensing</i> has noted in its response that current penalties for licensed private hospitals (max \$60,000), private day procedure

Regulatory issues for further investigation	
	<p>centres (max \$60,000) and restricted ambulance services (max \$20,000) for contravention of the legislation and/or license conditions, are often impractical to impose due to legal fees and poor documentation of non-compliance.</p> <ul style="list-style-type: none"> ▶ <i>Fisheries & Aquaculture</i> have responded that there are some small scale insufficient regulatory powers that require a review, in relation to fish caught illegally in other jurisdictions that are sold in South Australia.
Examples of overlapping responsibilities with local government causing inefficiency	<ul style="list-style-type: none"> ▶ <i>Liquor & Gaming</i> provided an example related to visibility of planning approvals for liquor licensing: Visibility of planning approval in respect of the use of the premises for liquor. It can be difficult for staff to interpret development approvals to ensure we avoid duplication and inconsistency. Currently exploring options with Council to make process more efficient, such as having access to the planning portal so that applicants do not have to provide CBS with planning documentation. ▶ <i>Water Licensing</i> provided an example of multiple approvals required by local and state government: Activities requiring development approval from a local council as well as approval under the <i>Landscape South Australian Act 2019</i> (the LSA Act). When constructing a building that requires existing wells to be backfilled and built over and/or that has underground works that will involve the take of groundwater from a prescribed groundwater resource. The SAPPa planning system (https://sappa.plan.sa.gov.au/) includes mapping layers about prescribed water resources and licensing requirements. In addition, the SA Planning Code includes information about when development approval applications are required to be referred to DEW. ▶ <i>Food</i> provided an example of multiple regulators within state government and local government: Regulation by a number of regulatory areas and local government. A number of high-risk, primary production related business types are subject to regulation by PIRSA, SA Health and/or local government. One specific example is supermarkets and retail outlets that sell ready-to-eat meats and have an on-site butcher. PIRSA only regulates supermarkets that have on-site butchers. Local government regulate supermarkets in general, including the deli section where there is no on-site butcher. SA Health can also be involved where a business undertakes high-risk processing and packaging of ready-to-eat meats. ▶ <i>Biosecurity SA</i> provided an example related to overlap in animal management: Domestic animal management, pest management, animal health, plant protection, response, animal welfare. There is some overlap in animal management requirements including with the Dog and Cat Management Board.
Examples of overlapping responsibilities with other	Issues relating to <i>Consumer and Business Services</i>' responsibilities

Regulatory issues for further investigation

state government entities causing inefficiency

- ▶ Licensing and registration of building work contractors and *SafeWork SA* in relation to licensing and issuing safety registrations and permits
- ▶ Licensing and registration of plumbers, gas fitters and electricians and the Office of the Technical Regulator in relation to ensuring compliance with technical installation and safety
- ▶ Licensing and registration of security and investigation agents and regulation of the tattoo industry and South Australia Police in relation to compliance and enforcement
- ▶ There is an opportunity to improve information sharing and have a single entry point to government.

Issues relating to the Department for Environment and Water's responsibilities

- ▶ Managed aquifer recharge projects (i.e. injecting water into underground aquifers for storage and later taking this water out). In the majority of cases, a licence from the EPA (SA) is required to inject water into an aquifer (under the Environment Protection Act 1993) and an authorisation from DEW is required to take the water out of the aquifer is required (under the LSA Act). Whilst a working group has been formed, which includes officers from both the EPA and DEW (to enable consolidated advice to be provided to proponents and for the agencies to review and comment on approvals from the alternate agency) having approvals across two agencies with separate legislation presents limitations and inefficiencies
- ▶ Drilling of wells in areas where site contamination is being explored or has been found. DEW is responsible for issuing well construction permits (a water affecting activity under the LSA Act where a permit is needed to drill, backfill or conduct works to a well (also known as a bore)). The EPA (SA) is responsible for the management of site contamination issues and SA Health is the peak body for provision of advice to the public regarding public health and safety matters in regards to water for domestic use. Given this, when DEW receives a well permit application for a Central Adelaide Prescribed Wells Area, which is outside a Groundwater Prohibition Area or EPA Assessment Area, a process is followed to check if the area has known or potential site contamination. The application is referred to the EPA for assessment and comment
- ▶ More clarity of role is needed with DEW in relation to animal welfare and wildlife management.

Issues related to SA Health's responsibilities

- ▶ High risk primary production areas require regulation by two regulators. A number of high-risk, primary production related business types are subject to regulation by PIRSA and SA Health.

One specific example is businesses that produce and process whole eggs and pasteurise egg pulp because legislation does not allow this

Regulatory issues for further investigation

audit to be undertaken by one regulator. A Memorandum of Understanding (MoU) with PIRSA exists.

- ▶ Private Health Facilities requiring regulation by two regulators. At times, if a private hospital or private day procedure centre development involves radiology services, an assessment by the EPA may be required to enable the Health Licensing Unit (HLU) to determine whether an application for an alteration/extension of premises is required under the licensing system
- ▶ There is some overlap with SA Health in responding to food safety incidents. This generally works well but can lead to some inefficiencies from time-to-time.

Issues related to *Mineral Resources* responsibilities

- ▶ Duplication of regulation in some cases, in relation to environmental regulation where the same thing is being addressed under both the *Petroleum and Geothermal Energy Act 2000* and the EPA Act. Often can lead to unnecessary regulatory duplication
- ▶ Some regulatory overlap with Private Mine Legislation under the Mining Act and EP Act. Overlap with DIT and major project applications (extractive material pre-qualification).

Example related to *Biosecurity SA*

- ▶ There is overlap with the Phylloxera & Grape Industry Board of South Australia ('Vinehealth Australia') with the latter seeking to have policy input into biosecurity regulation with respect to the grape and wine industries at both state and national levels.

Examples related to aquaculture leases and fisheries management

- ▶ Coastal Protection Board, with regards to duplication in environmental assessments through the development approval process with DIT (issuing aquaculture leases, licences) and DEW with regards to national park boundaries overlapping aquaculture leases. In some cases, there are regulatory challenges that are yet to be overcome e.g. Ceduna zone policy overlap with National Parks and Wildlife Act
- ▶ Fisheries management: DEW (Marine parks, Dolphin Sanctuary, River Murray Act, National Parks and Wildlife Act) e.g. conservation of marine mammals.

Interactions of key legislation in land management planning

- ▶ Exercising of powers under Pastoral Land Management and Conservation Act 1989 and the Native Vegetation Act 1991
- ▶ Powers that can be granted under NV Act result in inability to fully realise powers granted under PLMC Act (e.g. NV Act doesn't allow for removal of vegetation by grazing, whereas PLMC Act allows for granting of leases to utilise land for pastoralism, which is the sustainable grazing of animals on the vegetation present

Regulatory issues for further investigation	
	<ul style="list-style-type: none"> ▶ NV Act is state wide and does not account for existing PLMC Act that also regulates management of vegetation and is bespoke for specific landscapes in the north of the state. <p>Examples related to coastal waters and marine vegetation</p> <ul style="list-style-type: none"> ▶ EPA is currently negotiating with DEW to remove the duplication for inland waters ▶ The coastal waters crossover is managed by having clear role boundaries between the Coast Protection Board and the EPA ▶ One area that needs resolving is who takes the lead with loss of marine vegetation <ul style="list-style-type: none"> – Native Veg Council has terrestrial veg expertise but not marine veg – EPA has marine veg expertise and has offered to take the lead on regulating removal of marine vegetation through the PDI Act development application referrals to the EPA, and through the subsequent licensing process – EPA suggests that the Native Veg Council could still receive vegetation clearance offset payments, but the EPA would provide the lead recommendations to the relevant planning authority relating to marine vegetation clearance. <p>Potential for inefficiency with SafeWork SA and Skills Commission</p> <ul style="list-style-type: none"> ▶ Potentially around workplace supervision / safety (<i>SafeWork SA</i>) and complaints / disputes between employers and trainees / apprentices (<i>SA Skills Commission</i>).
Examples of overlapping responsibilities with other states and territories causing inefficiency	<p>Utilising licensing requirements from interstate for issuing a license in SA</p> <ul style="list-style-type: none"> ▶ Well Driller’s Licences (LSA Act). At present, a person is required to apply for a Well Driller’s Licence in each State or Territory that they wish to work. Whilst experience in other jurisdictions is considered in the assessment process, the person is still required to apply and undertake certain testing, in order to gain a Well Driller’s Licence in SA. DEW is currently considering automatically recognising interstate Well Driller’s Licences in SA (<i>Water Licensing</i>). <p>Cross border regulation</p> <ul style="list-style-type: none"> ▶ Cross border regulation of prescription monitoring (of prescribers and patients) and transport. Includes ownership of the data and who is the responsible regulatory authority (<i>Controlled Drugs</i>). <p>National exchange of driver information</p> <ul style="list-style-type: none"> ▶ Vehicle and Driver Information System (NEVDIS) - Driver licence data etc. No communication between IT systems and delays in systems (<i>Passenger Transport</i>).

Regulatory issues for further investigation	
	<p>Offshore regulation between state and Commonwealth</p> <ul style="list-style-type: none"> ▶ Offshore constitutional settlement agreement - shark management between States and Commonwealth (<i>Fisheries & Aquaculture</i>). <p>Mutual recognition of a variety of licences/permits</p> <ul style="list-style-type: none"> ▶ Mutual recognition of a variety of licences/permits can cause inefficiency. We are required under the WHS Act to recognise licences issued in another jurisdiction (<i>SafeWork SA</i>). <p>Coordination across states</p> <ul style="list-style-type: none"> ▶ Coordination between regulatory area, not overlap, but rather cooperation is required for items transported between jurisdictions, such as waste. This is being managed to a degree e.g. by waste tracking systems for hazardous waste across borders. Again, not strictly duplication as each state has their own scheme. However business needs to apply to each state/territory individually for container deposit scheme registration. All jurisdictions are currently working on harmonising the container deposit schemes across the country including having one application/registration portal. This is being led by SA and once achieved, will have benefits of efficiencies for both business and government (EPA).
Examples of overlapping responsibilities with the Commonwealth causing inefficiency	<p>Duplication and overlap with ATO</p> <ul style="list-style-type: none"> ▶ There is opportunity to remove duplication and overlap between the ATO excise licence to produce alcohol and CBS' liquor licensing requirements. CBS is currently working with the Commonwealth Deregulation Taskforce as part of the Department of Prime Minister and Cabinet to identify these opportunities to improve efficiencies (<i>Liquor & Gaming</i>). <p>State and Commonwealth overlap with assessment of major infrastructure projects</p> <ul style="list-style-type: none"> ▶ While not a significant issue there is potential inefficiency between major projects assessed under the Planning, Development and Infrastructure Act and the need to also obtain approval under the <i>Federal Environment Protection and Biodiversity Conservation Act</i>. That "overlap" is covered by a bilateral agreement that is currently being reviewed (<i>Planning & Development Approval</i>). <p>Confusion in scope of state versus Commonwealth regulators</p> <ul style="list-style-type: none"> ▶ Since 2013 the Commonwealth has imposed accreditation to National Safety and Quality Health Service (NSQHS) standards for all licensed private hospitals and private day procedure centres. Whilst the SA regulatory focus is on the standards of construction, facilities and equipment, there is some overlap with national standards, e.g. infection control. From a facility perspective they can be confused as to the scope or remit of accreditation vis-a-vis the state jurisdictional licensing system (<i>Health Licensing</i>).

Regulatory issues for further investigation

Inappropriate assumptions in Commonwealth legislation

- ▶ Under the *Carbon Farming Initiative Act*, the Commonwealth regulator approves carbon farming projects and assumes that all crown land in SA is managed by the Crown Lands Minister which is the responsibility of the Minister for Environment and Water. Where land is on a Pastoral Lease under the PLMC Act the responsible Minister is the Minister for Primary Industries and Regions. This leads to multiple approval processes. This could be addressed by considering the interfaces and interactions between legislation in SA that governs land use across the State and provide a more integrated framework that can then be translated into appropriate legislation or one overarching Act that deals with differing land uses (*Rural Solutions SA*).

Coordination of jurisdictional management for fishing

- ▶ Offshore constitutional settlement agreement: shark and finfish management between States and Commonwealth. Aquaculture: biosecurity management between jurisdictions and Commonwealth could be improved (*Fisheries & Aquaculture*).

State and Commonwealth overlap in training sector

- ▶ Overlap with state and Commonwealth regarding Registered Training Organisations. Potential overlap with Australian Skills Quality Authority (ASQA) regarding Registered Training Organisations (e.g. provider quality) (*Training & Apprenticeship Services*).

State and Commonwealth overlap in the mining sector

- ▶ Uranium mining and non-uranium mining projects with naturally occurring radioactive material (NORM) requiring disposal, are currently within the ambit of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). However in the EPA's view, these activities are adequately regulated under the Mining Act, the Radiation Protection and Control Act and the Environment Protection Act (*Environment Protection Authority*)
 - This issue creates a requirement for joint assessments for uranium mining when the environmental impacts are no different from other forms of mining
 - South Australia has been advocating for the removal of the uranium mining and milling component from the scope of the nuclear action trigger in the EPBC Act and the exclusion of non-uranium mining projects with NORM requiring disposal
 - In the absence of an agreement on the removal of these aspects from the requirements for assessment under the EPBC Act, the EPA noted the “second best solution” is accreditation of assessments under state legislation for purposes of EPBC assessment, based on agreed standards.

APPENDIX 4: PROACTIVE APPROVALS AND DECISION MAKING

Listed below are the written responses provided by regulatory areas when asked what else should be done for your area to better adopt a 'yes, if...' rather than a 'no, because...' approach to regulatory practice?

Liquor & Gaming - CBS' commitment to a 'yes, if...' approach is demonstrated through our Strategic Plan 2019-2022, which outlines four goals; delivering effective regulation; looking after our customers; better ways of working; and looking after each other. These goals are underpinned by strategies, deliverables and behaviours, including problem solving and finding solutions, going the extra mile for our customers and eliminating waste. These values drive a customer centric approach to regulation and the way CBS conducts its business.

Fair Trading & Related Acts - CBS' commitment to a 'yes, if...' approach is demonstrated through our Strategic Plan 2019-2022, which outlines four goals; delivering effective regulation; looking after our customers; better ways of working; and looking after each other. These goals are underpinned by strategies, deliverables and behaviours, including problem solving and finding solutions, going the extra mile for our customers and eliminating waste. These values drive a customer centric approach to regulation and the way CBS conducts its business.

Commercial Tenancies - Processes around the management of retail and commercial lease bonds remain largely internal due to the lack of demand and/or reluctance for change from lessees and lessors. It has been a matter of balancing the expenditure of public funds versus the benefits/risks

Dairysafe - co-regulatory and ethical business regulation approaches are currently applied by Dairysafe.

Water Licensing - The Water Licensing Branch already adopts a 'yes, if' approach. All applications are assessed against the LSA Act, as well as the principles and objectives of the relevant water allocation plan. If the application satisfies these 'rules' it is approved. If there is additional information or a change that can be made to an application that will result in a favourable outcome, Water Licensing will work with the applicant to see if they can provide the additional information or amend the application

Native Vegetation - The NVC has a yes if approach.

Controlled Drugs - A 'yes, if' approach is always adopted currently due to the high-risk nature of the regulated environment

Health Protection - A more contemporary, user friendly IT platform for applicants seeking statutory approvals would greatly assist in providing greater clarity for applicants as well as delivering efficiencies to SA Health.

Health Licensing - More information, in the form of written material, fact sheets, self-assessment tools, could be provided to applicants and current licences with respect to requirements to be fulfilled to successfully achieve the granting of a licence or successfully pass a routine site inspection

Training & Apprenticeship Services - Significant recent improvements regarding employer registration, where an employer is automatically registered if they declare that they meet the qualifying criteria.

Passenger Transport - We already adopt a "yes, if..." approach.

Energy Resources - Don't believe this is relevant to the PGE Act

Biosecurity SA - Investment in improved internal and external facing IT to improve engagement

Fisheries & Aquaculture - There are some regulatory provisions that can be made more efficient and modernised to reduce regulatory burden

Agriculture, Food & Wine - Continued industry engagement and streamlining of processes

Rural Solutions SA - A review of the current PLMC Act as it does not reflect a contemporary approach to regulation, for example it could be updated to allow 'approved activities not requiring approval'

SafeWork SA - Firstly, changing staff mindset. Secondly, upgrading an antiquated IT system that does not allow for Modern interfacing. IT integration with other departments/regulators.

Environment Protection Authority - Investigate automated updates, greater visibility and feedback at each stage of the licence application process. Providing draft 'standard' licenses for activities so that applicants know what to expect as an outcome. Requiring applicants to improve the information provided to ensure a 'due application is made' including using a hazard, pathway, receptor, or EIA document approach.

Return to Work SA - From default no to default yes has been quite a journey for RTWSA, but we have made significant progress over the last few years. We just need to continue our focus on scheme culture and changing behaviour rather than undue focus on individual compliance and enforcement outcomes.

Trade Waste and Networks - Trade Waste applications are almost always approved with conditions. It is extremely rare for a response to a Trade Waste application to simply be "no."

APPENDIX 5: STAKEHOLDERS CONSULTED

Agency	Regulatory Area	Survey Representatives
Consumer and Business Services	Liquor & Gaming	Dini Soulio, Commissioner
	Fair trading & related Acts	Dini Soulio, Commissioner
	Commercial tenancies	John Chapman, Commissioner
Planning and Land Use Services	Planning & development approvals	Nick Buick, Principal Planner Legislation
Dairysafe	Dairysafe	Geoff Raven, Chief Executive
Department for Environment and Water	Water Licencing	Mike Fuller, GM Water Licencing
	Native Vegetation	Merridie Martin, Director Heritage and Native Vegetation
Department for Health and Wellbeing	Controlled Drugs	Joanne Cammans, A/Director Food and Controlled Drugs
	Food	Joanne Cammans, A/Director Food and Controlled Drugs
	Health Protection	Michaela Hobby, Director Health Protection
	Health Licensing	Nick Parker, Manager Health Licensing
Department for Industry and Skills	Training & Apprenticeship Services	John Evangelista, Director, Training and Apprenticeship Services
Department for Infrastructure & Transport	Passenger Transport	Stuart Gilbert, Director Regulations Mikaela Minge, Executive Support Officer
Department for Mining and Energy	Energy resources	Barry Goldstein, ED Energy Resources
	Office of the Technical Regulator	Vince Duffy, ED, Energy and Technical regulation Rob Faunt, Technical Regulator
	Mineral resources	Alex Blood, ED, Mineral Resources Paul De Ionno, Acting Director Mining Regulation
Department for Primary Industries and Regions SA	Biosecurity SA	Nathan Rhodes, ED, Biosecurity James Simmonds, Policy Officer
	Fisheries & Aquaculture	Gavin Begg, A/ED, Fisheries and Aquaculture James Simmonds, Policy Officer
	Agriculture, Food & Wine	Jo Collins, ED, Agriculture, Food and Wine James Simmonds, Policy Officer
	Forestry	Rob Robinson, Director Forestry
	Rural Solutions SA	Daniel Casement, Director Rural Solutions SA James Simmonds, Policy Officer
Department for Treasury and Finance	SafeWork SA	Martyn Campbell, ED SafeWork SA
	Revenue SA	Julie Holmes, Commissioner of State Taxation & Revenue SA

Agency	Regulatory Area	Survey Representatives
Environment Protection Authority	Environment Protection Authority	Keith Baldry, Director Science and Information Andrew Pruszinski, Acting Director Regulation Kathryn Bellette, Director Strategy and Assessment Suzanne Behrendt, General Manager People and Performance
ESCOSA	ESCOSA	Adam Wilson, Chief Executive
Return to Work SA	Return to Work SA	Michael Francis, Chief Executive Julia Oakley, Executive Leader Regulations
SA Water	Trade Waste and Networks	David Ryan, Chief Executive Lisa Hannant, Senior Manager Water Production and Treatment

APPENDIX 6: TABLE OF ACRONYMS

Acronyms	Meaning
BP	Business Plan
CBS	Consumer and Business Services
CE	Chief Executive
COVID	COVID-19
CS	Controlled Substances
DEM	Department for Energy and Mining
DEMERD	Department for Energy and Mining Engineering Research Development
DIS	Department for Industry and Skills
EP	Environment Protection
EPA	Environment Protection Authority
ESCOSA	Essential Services Commission of South Australia
HLU	Health Licensing Unit
ISFR	Implementation Subcommittee for Food Regulation
ISO	International Organization for Standardisation
KPI	Key Performance Indicator
LGA	Local Government Authority
MATOD	Medication Assisted Treatment for Opioid Dependence
MOU	Memorandum of Understanding
MRD	Mineral Resources Division
OSAPC	Office of the South Australian Productivity Commission (OSAPC)
PHS	Private Health Service
PIRSA	Department for Primary Industries Resources SA
RIA	Regulatory Impact Assessment
RTPM	Real-time prescription monitoring
SASC	South Australian Skills Commission
SATSS	South Australian Transport Subsidy Scheme
WMS	Water Management Solutions