



Our Ref: D07716; 18/187760

Ms Analena Gilhome  
Economic Regulation Authority

By email: [Public.Submissions@erawa.com.au](mailto:Public.Submissions@erawa.com.au)

Dear Ms Gilhome

## **INQUIRY INTO REFORM OF BUSINESS LICENSING IN WESTERN AUSTRALIA**

Thank you for the opportunity to provide comment on the draft report of the Inquiry into reform of business licensing in Western Australia. The Department of Fire and Emergency Services (DFES) would like to make comment in relation to recommendation 5 and request 7 of the draft report, as follows:

*Recommendation 5: The Better Regulation Unit in the Department of Treasury should:*

- *Report publicly on agency compliance with Regulatory Impact Assessment requirements in an annual report, in accordance with current Regulatory Impact Assessment guidance.*
- *Publish and maintain a central repository of agencies' Preliminary Impact Assessments and the Better Regulation Unit's responses. These documents should be published as soon as the Better Regulation Unit has provided its response to the agency.*
- *Publish and maintain a central repository of agencies' Consultation Regulatory Impact Statements, submissions to those statements, Decision Regulatory Impact Statements and the Better Regulations Unit's responses. Statements and Better Regulation Unit responses should be published as soon as they are completed, and submissions to Consultation Regulatory Impact Statements should be published when received.*

**DFES comment:** The draft report examines the application of the Regulatory Impact Assessment (RIA) program to business licensing schemes, and does not look at the effectiveness of the process for other regulatory amendments. However, recommendation 5 relates to the RIA program for all regulatory amendments, not just business licencing schemes.

The ERA notes that the RIA guideline is under review and it would be helpful for agencies if this updated guideline is published as soon as possible. The Department's feedback in relation to recommendation 5 does not take into account the content of the revised guideline, but once the updated guideline is released, the Department's following comments in relation to recommendation 5 may change.

- DFES in principle agrees that the Department of Treasury should report publicly on agency compliance with RIA requirements in an annual report, assuming that this requirement remains within the RIA guideline.



- DFES in principle agrees that the Department of Treasury should publish and maintain a central repository of agencies' Preliminary Impact Assessments and the BRU's responses.
- In relation to the third dot point of recommendation 5, DFES does not support the recommendation that Decision Regulatory Impact Statements should be published as soon as they are completed in all scenarios. For example, in some circumstances it may not be appropriate for a Decision Regulatory Impact Statement (RIS) to be published until after the Decision RIS has been considered by Cabinet and a final decision has been made (due to Cabinet-in-confidence restrictions). Instead, the updated RIA guideline should clarify in what circumstances a Decision RIS should be publicly published.

*Request 7: Should legislation include sunset provisions for licensing schemes? If so, how should the sunset clause mechanism operate? In particular, how could sunset provisions affect other processes such as Regulatory Impact Assessment?*

**DFES comment:** The draft report notes that the Commonwealth's sunset clause regime has created significant workloads for agencies because each instrument must be reviewed in advance of its sunset date to give sufficient time to redraft an instrument or take action to preserve it. DFES is of the view that similar difficulties would be encountered in the Western Australian context if sunset clauses were introduced into legislation supporting licensing schemes.

In 2012 DFES commenced the Regulatory Impact Assessment process for the review of the emergency services Acts, and in 2015 received sign-off from the Regulatory Gatekeeping Unit (now Better Regulation Unit) on the Decision RIS. Not only was this process exceptionally time and resource intensive for the agency, but it was also time-consuming for businesses, volunteers and other stakeholders who were involved in the consultation process.

DFES further notes that if the initial consultation for a licensing scheme is done well (e.g. completing a Regulatory Impact Statement), it is unlikely the licensing scheme would need to be removed after 10 years.

If you would like to discuss any of the above comments please contact Michelle Smith, A/Director Legal, Policy and Compliance, at [michelle.smith@dfes.wa.gov.au](mailto:michelle.smith@dfes.wa.gov.au) or by telephone on 9395 9338.

Yours sincerely



**DARREN KLEMM AFSM  
COMMISSIONER**

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