

Compliance burden review – Agriculture sector

*Prepared for the
Department of
Economic
Development, Tourism
and the Arts*

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Executive summary

Regulation is an important part of the business landscape. Well-designed and efficient regulations are necessary to manage risks to business, employees and the community. They contribute to social, environmental and economic objectives by influencing behaviour and outcomes. However, regulations that are excessive or impose unnecessary requirements can add to the cost of doing business and erode the competitiveness of business.

The Department of Economic Development, Tourism and the Arts (DEDTA) engaged PwC to undertake a compliance burden review of the agriculture sector to identify opportunities to reduce the regulatory burden imposed on businesses in the sector.

The compliance burden review relied on consultation with agriculture sector businesses to identify:

- key examples where businesses considered that Tasmanian regulation and regulatory practices impose excessive or unnecessary regulatory burdens
- practical and tangible ways to reduce the time and cost incurred by agriculture sector businesses to meet their regulatory obligations.

A consistent theme that emerged from the business consultations was that regulatory issues affecting the agriculture sector are not caused by any single regulatory requirement. Rather, it is the cumulative burden imposed by a wide range of regulatory requirements that is of greatest concern to the sector.

While there is no ‘silver bullet’ to addressing regulatory burden in the sector, a concerted effort to remove existing regulatory burdens and prevent unnecessary new burdens from being introduced, regardless of how modest they may seem, can collectively lead to an overall reduction in the regulatory burden faced by agriculture businesses.

The review has identified 13 specific opportunities to reduce the regulatory burden experienced by the agriculture sector. These opportunities are grouped into three broad categories:

- Improving consultation processes for new regulations
- Streamlining and reducing existing regulatory requirements
- Providing clearer guidance and consistency for regulatory requirements

The opportunities identified relate to consultation requirements and a range of specific operational areas – transport-related regulatory requirements, pest-control requirements and development-related requirements. Examples of opportunities in each area are:

Consultation and transparency

Strengthen stakeholder consultation requirements for legislative and regulatory proposals by implementing greater consultation with affected businesses for proposals that are likely to have an impact on business. This could include:

- developing best-practice guidance to encourage departments and agencies to consult with affected businesses during the policy development phase for legislative and regulatory proposals
- amending the Legislative Review Program manual to require targeted consultation with affected stakeholders for legislative proposals that are expected to have a

moderate impact on business. (Currently, consultation is required only for those legislative proposals that are expected to have a *major* impact on business.)

Transport-related requirements

- Remove the requirement for farm businesses to provide a statutory declaration (after the first year) to obtain the 40 per cent rebate on motor vehicle tax that is available to the registered operator of a commercial goods vehicle engaged in agriculture.

Pest-control requirements

- Consider the removal of record-keeping and annual reporting requirements on the numbers and species of wildlife culled under a Crop Protection Permit, and consider replacing the requirement with a sampling-based approach to assess wildlife populations.

Development-related requirements

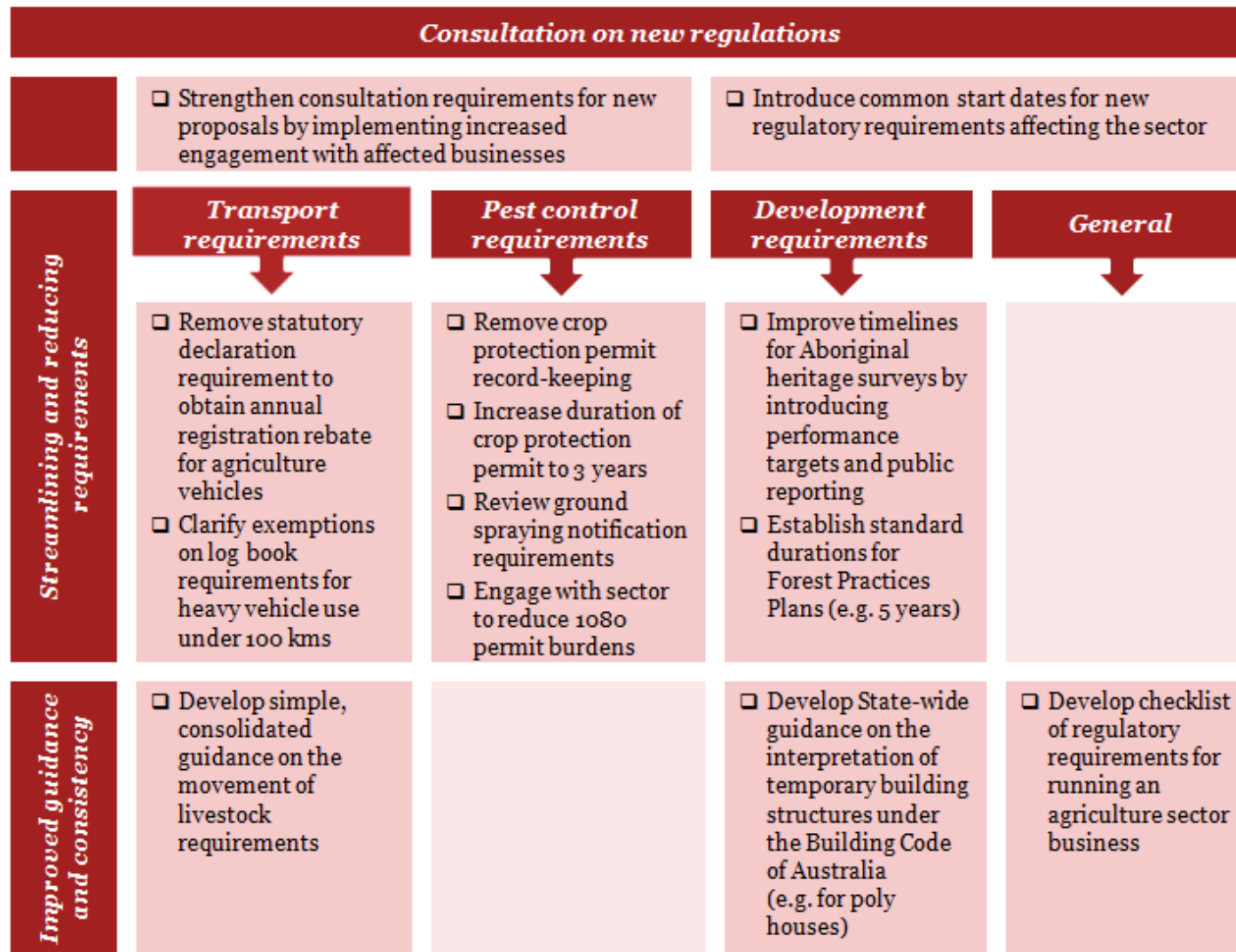
- To improve the timeliness of businesses obtaining approval of Aboriginal heritage surveys for development projects (where required), investigate the merits of introducing:
 - performance targets for the processing of Aboriginal heritage surveys
 - annual public reporting on the actual performance of processing Aboriginal heritage surveys compared against the performance targets.

Figure 1 on the following page provides a visual representation of the 13 opportunities.

In addition, a number of issues raised by business were considered to be out of scope of this review as they related to Commonwealth legislation or the actions of third parties such as utility providers. For instance, cabotage laws under the *Coastal Trading (Revitalising Australian Shipping) Act 2012* were considered to reduce the level of potential competition in shipping across Bass Strait, arguably resulting in higher shipping costs. Measures to reduce the costs of shipping across Bass Strait could enable Tasmanian agriculture sector exporters to compete more effectively in international markets.

Collectively, the opportunities identified have the potential to substantially reduce the regulatory burden experienced by the sector. Importantly, the burden savings could be achieved while maintaining the underlying policy objectives of the regulations.

Figure 1 – Summary of opportunities to reduce regulatory burden on the agriculture sector



1 *Background*

1.1 *Scope*

The Department of Economic Development, Tourism and the Arts (DEDTA) engaged PwC to undertake a review of the compliance burdens in the agriculture sector, informed by business interviews with the sector. The review is designed to identify potential compliance burden reduction opportunities. These opportunities will be considered by a working group chaired by DEDTA.

The compliance burden review is an action from the Red Tape Action Plan 2013-16 which identified the agriculture sector as a priority sector for review. The priority sectors were selected on the basis that they are currently important components of the Tasmanian economy, are identified as sectors with further growth potential and there is some evidence of particular issues or a high level of regulatory burden in the sector.¹

The compliance burden review seeks to identify:

- key examples of where stakeholders consider that Tasmanian regulation and regulatory practices impose excessive or unnecessary regulatory burdens on the agriculture sector.
- practical and tangible ways to reduce the time and cost incurred by agriculture sector businesses to meet their regulatory obligations.

The report considers the burdens imposed by Tasmanian regulation. It does not attempt to address those burdens imposed on Tasmanian businesses by Commonwealth regulation, national regulatory schemes, international or other requirements imposed on exporters, or requirements imposed by other businesses or organisations such as industry bodies or service providers.

1.2 *Limitations of the review*

The compliance burden review is designed to identify potential opportunities to reduce regulatory burden, informed by discussions with business. Due to the scope and timeframes for conducting the project, the review does not:

- undertake a comprehensive assessment of the regulatory burdens affecting the agriculture sector
- analyse all the relevant issues raised by businesses through the consultation process

The report provides a first step to tackling the regulatory burdens in the agriculture sector. As such, it focuses on key areas that were considered to affect a number of businesses and where practical solutions were identified to reduce the regulatory burden without unduly affecting the underlying policy intent of the regulations.

Given the timing and scope of the review, it does not attempt to assess the benefits derived from the current regulatory regimes.

¹ Red Tape Action Plan 2013-16, Department of Economic Development, Tourism and Arts, Tasmanian Government.

1.3 Governance arrangements

The review was supported by a working group comprising the sponsoring department, agriculture sector businesses, an industry association, relevant government agencies and local government. The entities represented on the working group were:

- DEDTA (sponsoring department)
- Department of Primary Industries, Parks, Water and Environment
- Tasmanian Farmers and Graziers Association
- Houston Farms
- Tasmanian Quality Meats
- Simplot Growers Group
- Daly Gourmet Potatoes
- Local Government Association of Tasmania
- Department of Treasury and Finance
- Building Standards and Regulation
- Department of Education Skills Tasmania

The working group provided industry and business community input to inform the opportunities to reduce the burden of regulation on the agriculture sector.

The broader function of the working group is to support the roll-out of the compliance burden review project by working collaboratively with key stakeholders on achievable actions to address areas of excessive compliance burden on the agriculture sector.

The membership of the working group is provided in Appendix A.

1.4 Structure of this report

The remainder of the report comprises the following sections:

- Section 2 of the report describes the approach to undertaking the compliance sector review and the business consultation process.
- Section 3 provides an overview of the Tasmanian agriculture sector and the regulatory burden in the sector.
- Section 4 outlines the opportunities to reduce the regulatory burden in the agriculture sector informed by the discussions with business.
- Section 5 provides a summary of the key findings from the project.

The appendices to this report provide:

- further information on the businesses consulted
- a summary table of the compliance burden reduction opportunities identified in the report

Background

- a list of additional issues identified through the business interviews that were not progressed in this report.

2 Approach

2.1 Overview of our approach

In undertaking the compliance burden review of the agriculture sector, we have applied an approach designed around business consultation to identify the existing issues and inform the compliance burden reduction opportunities.

The review provides analysis of key issues with the current regulatory framework, as observed by the agriculture sector businesses consulted as part of the review. It is not a comprehensive assessment of the regulatory burdens in the agriculture sector.

The key phases of the review comprise:

- **Targeted review of relevant literature** to provide context and inform the business consultation phase, drawing on:
 - the Red Tape Action Plan 2013-16
 - previous regulatory analysis work commissioned by DEDTA
 - issues papers and previous submissions from national and state industry associations
 - inquiries and research papers prepared by government agencies.
- **Business consultation** with a range of agriculture sector businesses operating in various regions of Tasmania (southern, northern and north-western regions) to identify:
 - examples of excessive red tape
 - common themes or issues experienced by the agriculture sector
 - potential solutions to address areas of concern.
- **Analysis and identification of burden reduction opportunities** based on:
 - prioritising the issues to focus on those areas that represent systemic regulatory burdens for a number of businesses in the sector
 - applying a regulatory framework to identify practical, tangible opportunities to reduce regulatory burden.
- **Review by working group** of business and government representatives to provide comment on the extent to which the regulatory issues identified in the report have been captured appropriately.

Following the completion of this report, the working group will consider the opportunities identified and provide its views on which opportunities should be further considered by government agencies to deliver burden reductions to agriculture sector businesses.

2.2 Consultation with businesses

The list of businesses interviewed as part of the review was selected by DEDTA, in consultation with other government agencies and an industry association.

The businesses consulted were intended to represent a broad cross-section of the agriculture sector. They included businesses that are members of a peak industry association and those that are not members. This approach ensured that a broad range of views was obtained to inform the review's findings.

Consultation was also undertaken with the Board of the Tasmanian Farmers and Graziers Association (TFGA) which represents five commodity groups – meat, dairy, wool, vegetables and agriculture.²

The list of businesses consulted is provided in Appendix A.

Consultation was undertaken through one-on-one interviews with agriculture sector businesses. These interviews were conducted face-to-face, as well as by teleconference.

In addition, two roundtable discussions with agriculture sector businesses and industry representatives were conducted. The roundtable discussions were held in Devonport and Launceston.

2.3 Regulatory framework

Regulation is a necessary part of the business landscape. It helps to manage risks to the community and contributes to a range of social, environmental and economic goals. In the agriculture sector, regulation contributes to achieving key objectives, such as:

- protecting Tasmanian farm produce from imported pests and diseases
- providing for a safe working environment for Tasmania's farmers and their employees
- protecting the community from risks to public health and safety
- ensuring the long-term sustainability of Tasmania's natural environment

In achieving these and other important objectives, the design and implementation of regulation must ensure that the burdens imposed are not excessive and that the obligations imposed on business are justified and proportional to the problem they are seeking to address.

Regulations that are excessive or unnecessary can add to the cost of doing business and erode the competitiveness of business. By diverting scarce business resources to regulatory compliance and reporting activities, excessive levels of regulation can stifle business' ability to grow and innovate.

As productivity, at its core, is about producing a specified output at lower cost, it follows that imposing unnecessary costs on business is detrimental to the productivity and competitiveness of Tasmanian businesses.

The regulatory framework broadly consists of three components:

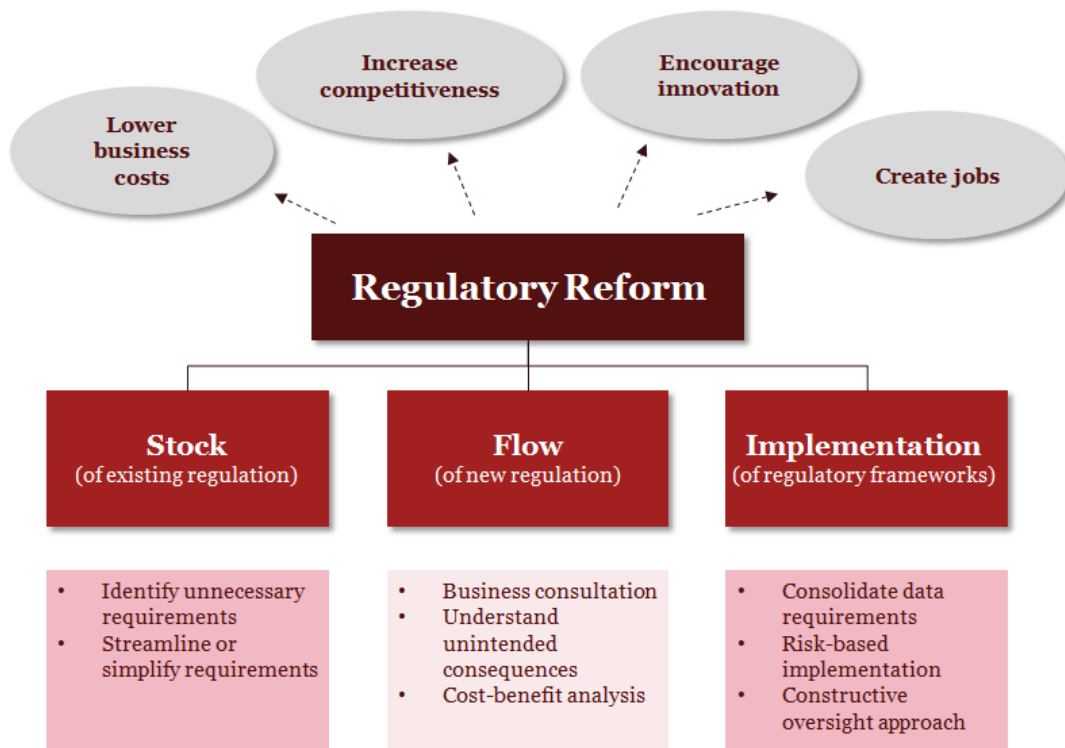
- **Stock of existing regulation:** This component comprises the existing requirements set out in legislation and regulation. Reducing the regulatory burden for existing regulation can be achieved by removing unnecessary requirements, reducing the frequency of requirements, or streamlining requirements.

² <http://www.tfga.com.au/about-tfga/>

- **Flow of new regulation:** An important driver to having an efficient stock of regulation over time is ensuring that the impacts of any new regulation have been adequately assessed. The decision to implement new regulations should be informed by the likely costs and benefits, as well as through stakeholder consultation.
- **Implementation of existing regulation:** How regulators implement regulation can have a significant effect on the burden experienced by business. Regulators can contribute to reducing the burden on business by:
 - providing clear guidance to business on the requirements they need to meet
 - processing applications for permits and licences in a timely manner
 - streamlining and simplifying reporting requirements on business
 - applying risk-based approaches to approvals and inspections processes that apply lower levels of scrutiny to businesses that are assessed as being lower risk (where such an approach is consistent with the regulatory framework)

The regulatory framework has informed the development of the opportunities identified in the report. Figure 2 provides a visual representation of the framework.

Figure 2: Regulatory framework



Source: PwC, 2013

3 Overview of the agriculture sector

3.1 Size of the agriculture sector

Tasmania has a strong agricultural sector that is highly diversified. The sector comprises growing, harvesting and processing of all agricultural products. It includes sub-sectors such as:³

- Farming of beef and sheep
- Red meat processing
- Fruit growing and processing
- Wool
- Grape growing and wine production
- Dairy farming and dairy product processing
- Vegetable growing and processing
- Salmon farming and processing

The Red Tape Action Plan 2013-16 identified the agriculture sector as a priority sector in terms of its contribution to the Tasmanian economy.

Of 38,800 operating businesses in Tasmania at June 2011 (the most recent data series), over 6,000 businesses were in the Agriculture, Forestry and Fishing sector.⁴ The Australian Bureau of Statistics (ABS) also reported that Tasmanian agricultural production was \$1.17 billion in 2011-12. Livestock products contributed \$422 million, followed by livestock slaughtering \$260 million and vegetables for human consumption \$213 million.⁵

3.2 Regulatory burden in the agriculture sector

Around 95 per cent of Tasmanian businesses employ less than 20 people, with the majority of businesses (60 per cent) not employing any staff. As regulatory requirements generally do not discriminate between small and large businesses, the burden often falls disproportionately on smaller business. This is because a regulatory requirement that takes a set amount of time or cost to complete represents a greater proportion of a small business' available time and resources compared with a large business.

In considering the regulatory burden imposed on agriculture sector businesses, some businesses consulted as part of the review indicated they are significantly resource

³ Tasmanian Red Tape Action Plan 2013-16, Appendix A Priority industry sectors (2013)

⁴ Australian Bureau of Statistics, [Counts of Australian Businesses, including Entries and Exits \(cat. no. 8165.0\)](#) (June 2011)

⁵ Australian Bureau of Statistics, Value of Agricultural Commodities Produced, Catalogue 7503.0, 2011-12

constrained due to their small size. For these businesses, meeting an additional regulatory requirement can mean diverting their attention from operational activities. Small businesses are also less likely to have specialised staff available to respond to complex regulatory requirements.

Consistent with these observations, a recent study undertaken for the NSW Better Regulation Office estimated that the average ongoing cost of Commonwealth, State and Local regulation for NSW small businesses was around 5.1 per cent of expenses, whereas for medium-sized businesses it represented a significantly lower 1.3 per cent of expenses.⁶

The sources of regulatory burdens that are relevant to the agriculture sector include:

- Planning and building
- Environmental requirements
- Agricultural chemicals and food safety
- Occupational health and safety
- Import and export requirements
- Road transport
- Quarantine and biosecurity

The Measuring Red Tape Report (January 2013) commissioned by DEDTA estimated the time that businesses spend on state-based regulatory requirements. The report provided results for the combined agriculture, forestry and fishing sector. While the classification is broader than the agriculture sector, the results are likely to be broadly representative given that agriculture is the largest component of that classification.

The Measuring Red Tape Report used a survey-based method to estimate that businesses in the agriculture, forestry and fishing sector that employ staff spend 19.9 hours per week managing their regulatory requirements. Businesses in the sector that did not employ staff spent significantly less time on meeting regulatory requirements – around 3.2 hours per week.⁷

In terms of the cost of meeting these requirements, the report produced indicative estimates that businesses in the sector collectively spent business time equivalent to around \$130 million per annum on meeting regulatory requirements and incurred a further \$186 million per annum in external costs for accountants, financial advisors or other external parties to help them to meet their regulatory requirements.⁸

In terms of the level of business interaction with regulators, a 2011 study by the University of Tasmania found that almost half (46.3 per cent) of businesses in the agriculture, forestry and

⁶ Cost to business – regulatory burden case studies final report, June 2013, prepared for the NSW Better Regulation Office.

⁷ Measuring Red Tape: Understanding compliance burdens on Tasmanian business (January 2013) report, Appendix 8.

⁸ Measuring Red Tape report, Appendix 4.

fishing sector interacted with government at least 20 times in the 2010-11 financial year.⁹ That report highlights the frequent nature of business' engagement with regulators.

⁹ Regulatory Burden for Smaller Businesses in Tasmania: Report from the 2011 Baselines Survey, Australian Innovation Research Centre, University of Tasmania.

4 Opportunities to reduce regulatory burden

4.1 Introduction

Consultations were undertaken with agriculture sector businesses to understand those areas of existing regulatory requirements that were considered to be onerous and identify opportunities to reduce the regulatory burden while preserving the underlying policy objectives of the regulations.

The issues raised by business were reviewed to identify those that provided practical opportunity for regulatory burden reduction within the existing policy objectives. The issues and opportunities identified are generally consistent with the following criteria:

- burden is imposed by a Tasmanian legislative or regulatory requirement
- issue was raised and confirmed by several businesses during the consultation stage
- issues are systemic in nature, rather than only presenting in very specific circumstances relating to a particular business situation
- addressing the regulatory burden issue is expected to benefit a number of businesses operating in the agriculture sector
- opportunities have been identified that are not expected to compromise the underlying policy objectives.

A wide range of issues were raised during the business consultations. The nature of this study has meant that this section has focused on those issues that were consistent with the criteria above. Appendix B provides a summary of the opportunities identified.

It is acknowledged that some issues that have not been considered further in this report may provide opportunities for compliance burden savings, subject to further investigation and identification of viable options to address these areas. Appendix C outlines the additional issues raised by businesses during the consultation phase.

4.2 Cumulative nature of burden

A consistent theme in the business feedback was that the issues affecting the agriculture sector do not relate to one or two specific regulatory requirements. Rather, it is the overall cumulative nature of the regulatory burden that is of greatest concern.

Several businesses also indicated that their perception is that the overall regulatory burden imposed on the agriculture sector has increased over time.

These observations are similar to the perspectives put forward by the National Farmers Federation (NFF) in its recent Issues Paper: Red Tape in Australian Agriculture:

“The NFF is of the view that while there are a range of necessary regulatory imposts across the entire agricultural sector it is the cumulative impact of the

*multitude and overall accumulation of minor or peripheral regulations that underpin the industry concern.*¹⁰

While there is no ‘silver bullet’ to addressing regulatory burden in the sector, a concerted effort to remove existing regulatory burdens and prevent unnecessary new burdens from being introduced, regardless of how modest they may seem, can collectively lead to an overall reduction in the regulatory burden faced by farmers.

4.3 Categories of burden reduction opportunities

The opportunities to reduce the regulatory burden experienced by the agriculture sector have been grouped into three broad categories:

- **Consultation processes for new regulations** – the overall engagement processes and requirements for developing and implementing new legislation and regulations.
- **Streamlining and reducing requirements** – includes opportunities that remove existing requirements, reduce the frequency with which businesses have to comply with requirements or simplify the requirements that need to be met.
- **Clearer guidance on regulatory requirements** – comprises guidance and information provision designed to reduce the regulatory burden without changing the underlying regulatory requirements. These opportunities can reduce business information search costs and increase business certainty by providing greater consistency of decisions.

The opportunities to reduce regulatory burden have been grouped into the three broad areas of business operation that they affect, based on discussions with agriculture sector businesses:

- **Transport-related requirements** (including transport, licences and permits, occupational health and safety, quarantine and biosecurity-related regulations)
- **Pest control requirements** (including environmental, agricultural chemicals, licences and permits, occupational health and safety-related regulations)
- **Development-related requirements** (including planning and building, environmental - related regulations)

4.4 Consultation for new regulations

Consultation and transparency

Tasmania has policy development and regulatory gate-keeping processes to manage the flow of new regulation. These processes manage the additional burden created by new legislation and regulations on business and other regulated parties. These processes are similar to those used by other Australian jurisdictions.

Under the Tasmanian *Subordinate Legislation Act (1992)*, Regulatory Impact Statements (RISs) are prepared to assess whether or not any part of a proposed Subordinate Legislation (i.e. regulation) imposes a significant cost, burden or disadvantage on any sector of the public. The Secretary of the Department of Treasury and Finance (in practice, the Economic

¹⁰ National Farmers Federation Issues Paper: Red Tape in Australian Agriculture, September 2013, overview section.

Reform Unit within the department) firstly makes a determination of whether proposed Subordinate Legislation imposes a significant burden, cost or disadvantage on any sector of the public. If it does, a RIS is then required to be prepared setting out the options and providing a cost-benefit analysis. The RIS forms the basis of the mandatory public consultation that then follows. This process is set out in section 5 of the Act.

The Government's Legislation Review Program (LRP) manual details the requirements for consultation on legislative proposals that have a business impact or restrict competition:

- For proposals with *minor* business impacts or restrictions on competition, public consultation is encouraged, but not mandatory
- For proposals with *major* business impacts or restrictions on competition, public consultation and preparation of a RIS are mandatory.¹¹

Under the guidelines there is no specific category for those legislative proposals that are expected to have a *moderate* impact on business or competition. A proposal in that category would need to be classified as being *major* for public consultation to be required.

The consultation that arises out of the Subordinate Legislation Act and LRP requirements is only in relation to the accuracy of the relevant department's assessment of the costs and benefits of the policy options, as set out in the RIS. This consultation process is separate to consultation on the 'form and design' of a policy proposal. Departments and agencies are expected to consult with stakeholders as part of the policy development process to help to formulate the most appropriate policy response and understand the likely impacts and unintended consequences of particular policy options.

Despite these arrangements, during the business interviews for this review, some businesses and their industry representatives raised concerns with a perceived lack of adequate consultation with stakeholders on the form, design and impacts of proposed legislation and regulations.

The Tasmanian Farmers and Graziers Association (TFGA) advised that, in its experience over the past three years, regulatory proposals affecting the sector seemed to be developed and finalised without sufficient consultation with business and without businesses having access to a cost-benefit analysis of the impacts and unintended consequences of the proposals. The examples provided included:

- Regulatory changes in 2012 to ban battery hen farming and mandate free-range farming conditions for commercial egg-laying chickens.
- A current proposal to strengthen gun ownership laws by introducing additional requirements for individuals and/or premises holding multiple guns (for example, a proposed requirement for a monitored alarm system to be installed for the premises).

It is unclear how often this issue may arise and the extent to which there is consultation with business on proposed legislative and regulatory changes that affect business. However, several businesses raised concerns about insufficient consultation in general. It was suggested by the TFGA that the precautionary principle could be applied to assume that a regulatory proposal had an impact on business and therefore required engagement with business, unless there was information available to the contrary.

To strengthen the stakeholder consultation requirements for both legislative and regulatory proposals, it is suggested that:

¹¹ Legislation Review Program Procedures and Guidelines Manual, Department of Treasury and Finance, September 2011.

Opportunities to reduce regulatory burden

- Best-practice guidance is developed to assist departments and agencies to consult with affected businesses during the policy development phase for legislative and regulatory proposals. The guidance would create a strong expectation that early and genuine consultation would be undertaken to inform the development of the proposal, unless there was an explicit reason for why consultation should not occur.
- Specifically in relation to legislative proposals, the Legislative Review Program manual could be updated to require targeted consultation with affected stakeholders for those legislative proposals that are expected to have a *moderate* impact on business. Under the current manual, consultation is required only for those legislative proposals that are expected to have a *major* impact on business.

The benefits of greater engagement with affected agriculture sector businesses are that proposals can be better designed to achieve their intended objectives, minimise the burden imposed on business and avoid any unintended consequences. Greater consultation could also be expected to lead to increased rates of compliance with the regulatory requirements as business would have a better understanding of the obligations placed on them and the rationale for these obligations.

Burden reduction opportunity 1:

Strengthen stakeholder consultation requirements for legislative and regulatory proposals by implementing greater consultation with affected businesses for proposals that are likely to have an impact on business. This could include:

- developing best-practice guidance to encourage departments and agencies to consult with affected businesses during the policy development phase for legislative and regulatory proposals
- amending the Legislative Review Program manual to require targeted consultation with affected stakeholders for legislative proposals that are expected to have a *moderate* impact on business. (Currently, consultation is required only for those legislative proposals that are expected to have a *major* impact on business.)

Commencement dates for new regulation

As discussed earlier in the report, agriculture sector businesses considered that the regulatory burden they experienced was growing over time. Due to the introduction of new and revised regulatory requirements, businesses commented that:

- it was difficult to keep track of the changing requirements and the date on which they commence
- new regulations imposed transitional costs for business to understand the requirements and, in some cases, make adjustments to their business processes and systems.

The costs and business disruption associated with introducing the new requirements could be reduced if changes were implemented at a single point in time, rather having ad hoc commencement dates spread across the year. Having common start dates for new regulations would provide advantages such as:

- enabling any training or information campaigns to cover all relevant changes affecting the sector at that time
- increasing business compliance levels with new requirements due to greater awareness of the changes and when they commence
- Applying commencement dates that do not coincide with the busiest times of the year for businesses in the sector.

The United Kingdom has had common commencement dates (CCD) in place since 2006 for new regulations that have an effect on business. Regulations with an impact on business can commence on one of two dates each year – 6 April or 1 October. The objective of the UK's model is to help business to plan for new regulation and to increase awareness and compliance with new obligations.¹²

Consideration could be given to applying a similar approach to that used in the UK, including consulting with UK officials to understand their experience with the implementation of common commencement dates over the past few years. The selection of the two commencement dates could be designed to avoid the busiest times of the year for most agriculture sector businesses. An exemption from the requirements would be available for the introduction of emergency or urgent regulatory measures. This approach could be initially implemented as a trial for the agriculture sector that, if successful, could be extended more broadly to regulations affecting any business.

Burden reduction opportunity 2:

Consider the merits of introducing common start dates for new or revised regulatory requirements affecting the agriculture sector (for example, two dates each year)

4.5 Streamlining and reducing requirements

These opportunities involve removing existing regulatory requirements, reducing the frequency with which business have to comply with requirements (e.g. less frequent licence or permit renewals) and simplifying the reporting and other obligations imposed on business.

Implementing some of these opportunities may require legislative or regulatory change.

4.5.1 Transport-related requirements

Motor vehicle registration rebates

Under the *Vehicle and Traffic Act 1999* and associated laws, primary producers are able to claim a discount on the motor tax for their commercial goods vehicles where they are used for agricultural purposes. The value of the discount is 40 per cent of the motor tax.

To obtain the discount, a farmer is required to present in person at the Service Tasmania office to complete a statutory declaration. This requirement applies each year at the renewal of the vehicle's registration.

During the business consultation, several agriculture sector businesses advised that this requirement was onerous. Given the rural location of farm businesses, completing the statutory declaration can require a two hour round trip to the nearest office. Agriculture sector businesses often have multiple vehicles that qualify for the motor tax discount, so this requirement has to be met several times each year (that is, at each vehicle's registration renewal date).

In the last 12 months (to 6 November 2013), the farmers rebate was applied to 3,226 vehicles.¹³ If each of these vehicles required, on average, a two hour round trip to the nearest Service Tasmania office to complete the statutory declaration, the total time burden is in the order of 6,452 hours each year.

¹² Common Commencement Dates – Guidance for Policy Makers (August 2010), UK Department of Business Innovation and Skills.

¹³ Based on data provided to PwC by the Tasmanian Department of Infrastructure, Energy and Resources on 5 November 2013.

In considering any regulatory requirement, the benefits should be weighed against the costs imposed. As it is unlikely that farm vehicle status would change from year to year (while the vehicle is registered to the same owner), there may be an opportunity to apply a more risk-based approach to administering the motor vehicle registration rebate.

For example, an exceptions-based oversight regime would significantly reduce the regulatory burden. Under an exceptions-based regime, a farmer would complete a statutory declaration in the first year of ownership only. For subsequent years, the regulator would assume that the status of the vehicle had remained unchanged and would issue an invoice for the discounted amount. An obligation would be placed on the vehicle owner to advise the regulator if the status of the vehicle had changed during the year. If the status of the vehicle was unchanged, the vehicle owner could simply pay the discounted amount electronically or via telephone banking.

Burden reduction opportunity 3:

Remove the requirement for farm businesses to provide a statutory declaration (after the first year) to obtain the 40 per cent rebate of motor vehicle tax that is available to the registered operator of a commercial goods vehicle engaged in agriculture.

Farm vehicle travel log-book requirements

Some agriculture sector businesses indicated that they were required to maintain travel log books for any trips taken in a heavy vehicle (greater than 12.9 tonnes mass). This was considered to be an onerous requirement given the large number of short trips that are undertaken and the need to record each of these trips separately.

The purpose of maintaining log books for heavy vehicles is to improve road safety outcomes by monitoring and managing issues associated with driver fatigue. This is particularly relevant in the heavy vehicle freight industry. Businesses consulted advised that farm heavy vehicles do not generally travel long distances, and so issues of driver fatigue are less relevant. For these farm heavy vehicles, the businesses consulted advised that the majority of trips are of a short duration and generally involve travel of less than 50 kilometres from the agriculture business.

In Tasmania, the requirement to keep log books for heavy vehicles has recently moved to sit under the National Heavy Vehicle Regulations (NHVR). The NHVR provides an exemption from completing a work diary (or log book) to record work and rest times for heavy vehicles that travel within a 100 kilometre radius of their base.¹⁴

This exemption has a direct benefit for agriculture businesses with heavy vehicles as it reduces the record-keeping requirement for these vehicles. The extent to which this benefit is realised will depend on agriculture businesses understanding the new requirements and their obligations under those requirements, particularly in relation to applying the exemption and demonstrating compliance with other requirements such as scheduled breaks (where applicable). Anecdotally, some businesses may be unnecessarily complying with the work diary (log book) requirements because they are unclear on what minimum requirements apply to their situation.

To assist agriculture sector businesses to realise the benefits of the NHVR exemption (where applicable), guidance material could be prepared to communicate the specific changes to agriculture sector businesses and clarify how the new requirements can be met in practice.

¹⁴ www.transport.tas.gov.au/hv/national_heavy_vehicle_regulator, accessed 18 November 2013

Burden reduction opportunity 4:

Engage with industry and provide guidance material to:

- advise that agriculture sector businesses are not required under the National Heavy Vehicle Regulations to maintain log books for heavy vehicles (greater than 12.9 tonnes) when travel is within 100 kilometres of their base
- clarify how the exemption operates and what residual requirements apply to drivers travelling within 100 kilometres and how these can be demonstrated in practice.

4.5.2 *Pest control requirements*

Crop Protection Permit record keeping requirements

As part of the Crop Protection Permit (CPP) requirements to control or prevent browsing damage by wildlife species, farmers are required to keep records on the numbers and species of animals taken.

The businesses consulted advised that wildlife (i.e. wallabies) are culled at night, on up to 50 separate occasions each year and using multiple shooters. One business advised that it used up to 6 shooters at a time. To accurately maintain records and meet the reporting requirements, each shooter would need to verify the species of each wallaby killed that night and add that wallaby to their tally at that time. We understand there are two species of wallabies that are recorded. Based on the scenario numbers above, this would require up to 600 separate records to be created each year and then aggregated to provide annual figures to the regulator.

Given the nature of these requirements, it is highly unlikely that the annual figures provided by farmers to the regulator accurately reflect the actual count of wildlife culled over the previous year. It was also noted by business that the animals being culled are not endangered.

To the extent that the purpose of this record-keeping requirement is to enable the regulator to monitor wildlife populations of the various species, relying on the numbers reported by farmers is unlikely to provide a robust and consistent methodology for assessing these populations.

An alternative approach to address these inherent issues and remove the reporting burden placed on farmers would be to rely on a more direct sampling approach that undertakes periodic sampling of wallaby populations to assess probable numbers. Farmers could still provide an indication of the numbers of wallabies they expected to cull in the upcoming licence period, but would not be required to report on the actual numbers that had been culled. Over time, this sampling based approach would likely improve the quality of information available to the agency. The direct sampling approach could build on the existing annual spotlight counts undertaken by the Department of Primary Industries, Parks, Water and Environment.

Burden reduction opportunity 5:

Investigate the removal of record-keeping and annual reporting requirements on the numbers and species of wildlife culled under a Crop Protection Permit, and consider replacing with a sampling-based approach to assess wildlife populations – for example, an improved approach to the existing spotlight counts undertaken by the Department of Primary Industries, Parks, Water and Environment.

Crop Protection Permit duration

Currently, the maximum duration of the Crop Protection Permit (CPP) that enables landowners to shoot wallabies in order to control and prevent browsing damage by wildlife

species is 12 months.¹⁵ The need to manage wildlife numbers to prevent browsing damage is ongoing.

Some businesses advised that the requirement to obtain a new permit each year is burdensome and that extending the duration of the CPP would help to reduce the number of regulatory matters that farmers were required to focus on at any one time. The requirements to obtain a CPP include:

- provide full details of all agents (hunters) who will be shooting on the landowner's behalf
- sign and return the previous permit to the regulator
- detail the number of animals taken under the previous permit

Increasing the duration of the CPP to shoot wallabies to up to 3 years would better reflect the ongoing nature of managing wildlife numbers. This would reduce the burden on farmers, without adversely affecting policy outcomes. This opportunity goes hand-in-hand with the opportunity above to remove reporting requirements for the numbers of wallabies culled each year. If the annual reporting requirement was removed, there is less justification to limit the permit duration to 12 months.

Burden reduction opportunity 6:

Consider increasing the duration of the Crop Protection Permit that enables landowners to shoot wildlife to prevent browsing damage from 12 months to up to 3 years.

Ground spraying requirements

Under the Code of Practice for Ground Spraying (February 2001) commercial and agricultural operators are required to notify neighbours at least one day, but preferably two days in advance of spraying. The Code states:

If you are a commercial grower or producer, you should notify occupiers of properties and buildings within 100 metres of any area to be sprayed, of your intention to spray at least one, but preferably two days in advance. The information you provide should include details of the sprays to be used and the steps that will be taken to minimise drift. Verbal notification is acceptable.¹⁶

In addition, there are a number of record-keeping requirements related to ground spraying. These include:

- date of spraying
- location of spraying
- type and area of crop sprayed (if crop is for human consumption)
- names and rates of any chemical products applied
- equipment used for spraying (if crop is for human consumption)

¹⁵ DPIPWE website, permits and regulations page. <http://www.dpiw.tas.gov.au/inter.nsf/WebPages/JAAR-8UD8TH?open>

¹⁶ Department of Primary Industries, Water and Environment, Code of Practice for Ground Spraying (February 2001) Clause 21, (applies under the Agricultural and Veterinary Chemicals (Control of Use) Order 2001.

- wind speed and wind direction (if crop is for human consumption)
- air temperature (if crop is for human consumption)¹⁷

This information needs to be provided in a spray report for each spraying operation.

Some farmers indicated they considered the notification and reporting requirements to be excessive and not sufficiently flexible from an operational perspective. For example, in the event that spraying needs to be delayed to the following day due to inclement weather, the farmer is required to re-notify all applicable neighbours of the new spraying date and related information such as steps to be undertaken to minimise drift. The minimum one day notification requirement (and recommended two day notification period) means that it may not always be possible to conduct the scheduled spraying the following morning (to take advantage of good weather conditions) due to not being able to meet the minimum notification requirements.

To reduce the burden in these situations, additional flexibility could be considered in the notification requirements to better align the requirements with farm operational needs. This may be possible in cases where notification of neighbours has already occurred, but the spraying has been delayed due to poor weather conditions. For example, this could be addressed by allowing the notification to advise neighbouring properties that spraying will occur over the next 5 days (or other appropriate timeframe).

It is beyond the scope of this review to consider the merit of each of the existing reporting requirements mentioned above. Any consideration of potential burden reduction opportunities would need to be carefully balanced against the public health and safety, and environmental outcomes that these requirements are designed to deliver.

We understand that work is currently being undertaken to reform the national system for agricultural and veterinary chemical management. Any consideration of the Tasmanian regulatory environment in this area should be cognisant of any national developments that may affect the State's regulations.

Burden reduction opportunity 7:

Review ground spraying notification and reporting requirements for commercial and agricultural operators to better align notification requirements with business needs – for example, allow the notification to identify a 5 day period during which the next spraying operation will occur.

(This work would need to be cognisant of the reform of the national system for agricultural and veterinary chemical management and any implications for the State's regulations.)

1080 Poison requirements

The use of 1080 poison in Tasmania is restricted to ensure that community expectations are met and that it is used only as a last resort for the control of browsing animals. 1080 poison is sodium monofluoroacetate (compound 1080) and is derived from certain Australian plant species. The Department of Primary, Industries, Parks, Water and Environment advises that 1080 poison is widely used in Australia and New Zealand to control pest animals.¹⁸

¹⁷ Department of Primary Industries, Water and Environment, Code of Practice for Ground Spraying.

¹⁸ DPIPWE website (November 2013). <http://www.dpiw.tas.gov.au/inter.nsf/WebPages/RPIO-4ZM7CX?open>

Opportunities to reduce regulatory burden

The use of 1080 poison is controversial due to its relative toxicity to a wide range of animal species, including dogs, cats and other non-target species.

During the business consultations, several agriculture sector businesses advised that the current requirements for the use of 1080 poison are onerous and resource-intensive. These businesses considered 1080 poison to be a last resort to protect their crops from browsing animals and questioned the extensive record-keeping and other requirements placed on them to support any request to use 1080 poison.

The average reduction in farm productivity as a result of browsing wildlife damage was estimated at 22.4 per cent in 2006-07, based on information provided by landholders.¹⁹ Some industry representatives consider this figure to be a conservative estimate.

The permit application requirements include:

- Shooting history log
- Maps of the site(s)
- Photos of damage and presence of animals
- Records of actual browsing damage, or records of browsing damage risk
- Characteristics of target area
- GPS coordinates of proposed poison line and other significant landmarks
- Forest Practices Plan
- Property based Wildlife Management Plan
- Crop protection permits
- an accredited assessor undertaking an on-site inspection²⁰

In cases where 1080 poison is the only effective mechanism to control browsing animals, the requirements above place a significant time and cost burden on agriculture sector businesses.

To the extent that the significant burden imposed on the use of 1080 poison is designed to limit its use, there may be alternative mechanisms to restrict its use that impose a reduced regulatory burden on those agriculture sector businesses that meet the requirements for its use. For instance:

- Can the requirements be streamlined, while still achieving the same restrictions on the use of 1080 poison? For example, can the requirements be streamlined for agriculture sector businesses that have previously obtained a 1080 permit?
- What proportion of permit applications are rejected? If there are common reasons for the rejection, can the application criteria for 1080 permits be clarified so that

¹⁹ Alternatives to 1080 Program, Final Report, April 2011, Australian Government and Tasmanian Government.

²⁰ Department of Primary Industries, Parks, Water and Environment,

agriculture sector businesses that are likely to have their applications rejected can avoid the regulatory cost associated with applying for a permit in the future?

- Are there particular geographic zones where multiple properties have been authorised to use 1080 poison? If so, are there options to reduce the burden imposed on businesses in these areas to demonstrate their need for a permit (if there is an already documented problem in that geographic area).

The issue of 1080 permits was mentioned extensively by agriculture businesses during the business consultations and there are extensive requirements currently in place. Given this, further engagement between government agencies and agriculture sector businesses may identify specific opportunities to reduce the regulatory burden for the legitimate use of 1080 poison. The existing restrictions placed on the use of 1080 poison as outlined in the Code of Practice for Use of 1080 Poison are:

- that there is an unacceptable risk to a crop or pasture
- that the use of 1080 does not pose an unacceptable risk to a population of non-target species
- that alternative control measures have been adequately considered and implemented as far as practicable and judged to be ineffective.²¹

In addition, there may also be merit in developing additional guidance material on practical, cost-effective alternative methods for controlling browsing animals. This work could provide indicative cost-ranges for the alternative methods and their expected effectiveness under varying situations. This could build on the *Alternatives to 1080 Program* report (April 2011). During the business consultations, a relatively common theme was that the currently suggested alternatives are not cost-effective for many businesses – for example, erecting wallaby fencing.

Burden reduction opportunity 8:

Engage with the agriculture sector to develop options to:

- reduce the regulatory burdens associated with obtaining a permit for the use of 1080 poison, without affecting the total number of permits issued each year.
- develop guidance material on practical, cost-effective alternative methods to control browsing animals, building on the *Alternatives to 1080 Program* report in April 2011 and the Wildlife Management planning toolkit.

4.5.3 Development-related requirements

Aboriginal heritage surveys

Under the *Aboriginal Relics Act 1975*, development projects that are outside of an existing footprint may require an Aboriginal heritage assessment.

An Aboriginal heritage survey or assessment is the on-site assessment that is used to establish whether Aboriginal heritage sites are present in the proposed development area

²¹ Code of Practice for Use of 1080 Poison for Native Browsing Animal Management (July 2006)

and whether they will be affected by the proposed development. These assessments are carried out by Aboriginal heritage practitioners.²²

Several businesses interviewed in the sector indicated that the Aboriginal heritage survey requirements can increase the costs and uncertainty associated with expanding a business. This issue is broader than the agriculture sector and would apply to any individual or business seeking to undertake works outside of an existing footprint where there is a possibility that Aboriginal heritage may be present. Without the necessary approvals from Aboriginal Heritage Tasmania (AHT), a proposed development cannot proceed to the next stage. Reducing the uncertainty and processing times associated with these requirements would reduce the regulatory burden placed on business.

AHT advised that they had reviewed 28 survey reports in 2013 (as at 5 November 2013). This compares with 36 surveys in 2012 and 45 surveys in 2011. The figures represent physical reports that were submitted to AHT for projects that the agency had determined need a survey. The agency noted that there were instances where it had requested a survey and the project had not proceeded.

Table 1 provides the general turnaround timelines for a project when coming through AHT.

Table 1: Aboriginal Heritage Tasmania – Process Timelines

Activity	Expected turnaround time	Comment
Desktop assessment	10 working days	Nil
Tasmanian Aboriginal Site Index (TASI) Search	10 working days	Nil
Aboriginal Heritage Survey	Varies	Outside of AHT parameters, but generally it is a one month turnaround for the consulting archaeologist to do background research, on ground survey and prepare the report. Varies based on the size and complexity of the project.
Report Review	10 working days, but can vary	If the report is accepted by AHT in the first instance it is 10 working days. However, if it is rejected, the timeframe may extend.
Permit application	Approximately 20 working days	This includes the writing of a position paper at AHT through to sign-off by the Minister. This may also depend on what actions the Aboriginal Heritage Council (AHC) would like to take with the application as well as potential site visits by the AHC or Minister.

Source: Aboriginal Heritage Tasmania, 5 November 2013

The feedback from businesses indicated that the timeline to obtain an Aboriginal heritage survey and receive approval from one of the Aboriginal Associations can vary significantly in

²² www.aboriginalheritage.tas.gov.au/frequently-asked-questions

practice. Businesses provided examples where obtaining the survey and having it approved had taken from several months to a full year.

As a first step to improve the timeliness and certainty associated with the Aboriginal heritage survey requirements, a performance target for the processing timelines for Aboriginal heritage surveys could be introduced. The introduction of performance targets could be supported by annual publication of actual performance in processing the surveys, compared against the performance target. The collection of data and reporting could be coordinated by AHT.

This opportunity could be strengthened, if needed, through the introduction of a statutory time-limit for processing Aboriginal heritage surveys. For example, if a survey was not processed within the statutory time limit, the business' application would be deemed to automatically satisfy the requirements and could proceed to the next stage in the development approval process.

Burden reduction opportunity 9:

To improve the timeliness of businesses obtaining approval of Aboriginal heritage surveys for development projects (where required), investigate the merits of introducing:

- performance targets for the processing of Aboriginal heritage surveys
- annual public reporting on the actual performance of processing Aboriginal heritage surveys compared against the performance targets.

Forest Practices Plan duration

Forest Practices Plans (FPP) are a legal requirement under the *Forest Practices Act 1985* and are required for almost all forest practices on private and public land. FPPs outline the prescriptions and provide a map detailing how the forest practices are to be conducted. The requirements include:

- details on the location of roads
- planned harvesting systems
- reforestation provisions
- tree stocking standards
- measures for the protection of natural and cultural values
- details of operational phases
- list of individuals responsible for the phases.²³

There is no statutory time limit for a FPP under the Act and the Forest Practices Regulations. In practice, however, FPPs are not normally issued for more than 5 years. This is done for administrative reasons.²⁴

In the agriculture sector, FPPs are needed for clearing forests for agricultural purposes. Businesses advised that the requirements to obtain a FPP are extensive and, in some cases,

²³ Forest practices plans: information for landholders and applicants, version 1.2, July 2012, Forest Practices Authority.

²⁴ Email correspondence from the Forest Practices Authority; 4 November 2013.

the FPP is issued for only two years. This imposes a burden on the business to renew the FPP after the second year.

This issue was also raised by the TFGA in correspondence to the Tasmanian Government in November 2013, stating that:

“Farmer unknowingly breached [the] Forest Practices Act because [the] permit had lapsed and he cleared regrowth under [the] original permit. Time limits on [the] life of FPP means delay can result in having to start again with the same FPP”

To reduce the business costs associated with obtaining FPPs, consideration should be given to setting a default duration for FPPs. For instance, the default duration could be set at 5 years, unless there is a reason to justify a shorter duration for some applications for a FPP.

Burden reduction opportunity 10:

Develop internal guidelines to issue Forest Practices Plans for a standard duration (for example, 5 years), unless there are specific circumstances to warrant a shorter duration permit being issued.

4.6 Improved guidance and consistency

These opportunities are designed to reduce the regulatory burden on business without changing the underlying regulatory requirements. The types of opportunities include improved provision of information to reduce business search costs and increasing administrative decision-making consistency to reduce the uncertainty and costs experienced by businesses through approval processes (such as permit and licence applications).

4.6.1 Overarching regulatory obligations

Checklist of requirements for running an agriculture business

There are a wide range of regulatory requirements and codes that agriculture sector businesses need to comply with. Businesses commented that it is often difficult to stay on top of all the existing and new requirements that must be met. It was suggested that an overarching checklist that provided a snapshot of the key regulatory requirements that were relevant to running a farm business would be useful. A checklist would provide a two-fold benefit:

- Farmers would require less time to seek out and understand the relevant information on the range of regulatory requirements they needed to meet
- Compliance with existing requirements would likely increase due to greater accessibility and transparency of the regulatory obligations.

The checklist could provide a short summary of each of the key regulatory requirements and details on where to obtain further information.

If a checklist was implemented alongside the opportunity to introduce common start dates for new regulatory requirements affecting the agriculture sector (burden reduction opportunity 2), the checklist could be updated to coincide with the common start dates for new regulations affecting the sector. This would enable agriculture sector businesses to access a short, consolidated summary of the new requirements they needed to familiarise themselves with. The checklist could also highlight any reductions in regulatory requirements so that business could adjust their systems and processes to realise the cost savings from these reduced requirements.

The checklist could be hosted on the Department of Primary Industries, Parks, Water and Environment website, as well as potentially being distributed by relevant industry associations.

Burden reduction opportunity 11:

Develop a short checklist of the overarching regulatory requirements for running an agriculture business, with periodic updates of the checklist to highlight new or revised regulatory obligations affecting the sector.

(These updates could be aligned with the timing of common commencement dates for new regulatory requirements – as per burden reduction opportunity 2.)

4.6.2 Transport-related requirements

Consolidating requirements for movement of livestock

During the consultation process, agriculture sector businesses commented on the complexity of the requirements that apply when moving livestock and the inherent difficulties in understanding what is required when undertaking this single activity.

Subsequent advice provided by the Department of Primary Industries, Parks, Water and Environment indicated that there are at least 9 separate requirements – in the form of legislation, regulations and guidelines – that agriculture sector businesses must familiarise themselves with when moving livestock. The requirements include:

- Animal Welfare (Land Transport of Livestock) Regulations 2013 (S.R. 2013, No. 28)
- Animal (Brands and Movement) Act 1984 (No. 14 of 1984)
- Animal Health Regulations 2006 (S.R. 2006, No. 82)
- Animal Welfare Guidelines – Transport of Livestock Across Bass Strait
- Plant Quarantine Act (import of sheep and other fleece animals)
- Heavy Vehicle Transport Laws
- Occupational Health and Safety Laws
- A National Vendor Declaration form is required to accompany all livestock movements
- A Meat Standards Australia declaration is also required by some processors.

All these requirements relate to a single activity – the movement of livestock.

Reviewing and consolidating these requirements into easy-to-understand guidance material for the movement of livestock would reduce the burden on agriculture sector businesses by making it less time consuming to understand the requirements, as well as seeking to address any identified overlaps and possible inconsistencies between the requirements. Providing consolidated guidance material may also lead to increased rates of compliance if the requirements are more readily understood and disseminated to relevant businesses.

Burden reduction opportunity 12:

Develop consolidated, easy-to-understand guidance material on the requirements pertaining to the movement of livestock.

4.6.3 *Development-related requirements*

Guidance on Tasmanian application of Building Code of Australia

An issue was raised by businesses during the interviews on the apparent inconsistent application of the Building Code of Australia (BCA) by certain councils. These issues were specific to structures that are used in the agriculture sector.

There are 29 councils in Tasmania which are responsible for administering applications relating to the BCA. Under the BCA, the requirements that apply to permanent structures differ from those that apply to temporary structures, with permanent structures having additional requirements to obtain a building permit.

Businesses provided two examples where particular councils had classified structures that are usually considered to be temporary structures as permanent structures. The practical effect was that the agriculture sector business was required to obtain a more complex permit that applied to permanent structures. These examples related to:

- Construction of a poly house or poly tunnel to grow plants in a protected, micro-environment. Poly houses are plastic greenhouses that are available in kit form and are constructed from tubing and plastic sheeting. These structures have generally been treated by councils as temporary structures.
- Environmental mesh netting to cover fruit trees to protect them from pests and wind damage. A particular council had indicated to a business that it may classify this type of netting as falling under the BCA and requiring permits.

The extent to which there is inconsistent treatment of these structures across councils increases uncertainty for business, as well as increasing regulatory burdens if the interpretation is to classify these items as permanent structures in the context of the BCA requirements.

Despite being raised during the business consultation, we understand that the issue relating to environmental mesh netting was addressed in 2012 through an exemption from building permits for crop protection structures. Poly tunnels are not currently automatically exempted, but we have been advised that the issue is being investigated by Building Standards.

To ensure more consistent treatment of these structures across councils and reduce uncertainty for agriculture sector businesses, State-wide guidance material could be developed on the interpretation of temporary building structures for the application of the BCA. This would specifically cover poly houses (or tunnels).

Burden reduction opportunity 13:

- Engage with Local Government to develop State-wide guidance material on the interpretation of temporary building structures in relation to poly houses or poly tunnels that are relevant to agriculture sector businesses.

(We understand that Building Standards has a project underway to investigate this issue.)

4.7 *Out-of-scope issues*

The scope of the project relates to regulatory burdens imposed by Tasmanian regulations and regulators. It does not include cost burdens imposed on agriculture sector businesses as a result of national requirements or the actions of private business or government business enterprises.

During the consultations, a number of agriculture sector businesses provided examples where national requirements or third party actions or policies had imposed additional costs on the sector. The examples provided included:

- Cabotage laws, under the *Coastal Trading (Revitalising Australian Shipping) Act 2012*, were considered to reduce the level of potential competition in shipping across Bass Strait, arguably resulting in higher shipping costs. This particularly affects the limited number of agriculture sector businesses that export their product by shipping it through a mainland port. In these cases, the initial leg of shipment (i.e. to the mainland) is not eligible for Tasmanian Freight Equalisation Scheme (TFES) payments which are intended to reduce the freight costs of sea transport across Bass Strait. Measures to reduce the costs of shipping across Bass Strait would enable Tasmanian agriculture sector exporters to compete more effectively in international markets (where products are trans-shipped through a mainland port).
- utility providers and the requirement for landowners to maintain electricity poles on their own property under certain circumstances
- the energy utility provider issued notices to farmers that meter readers would not read meters accessed using raised platforms until the platform had been certified by an engineer²⁵
- the impacts of off-peak energy pricing incentives on undertaking irrigation activities (and the potential safety issues associated with night-time irrigation)
- industry-led requirements for paperwork on the annual calibration of chemical spraying units – for example, ChemCert Australia

DEDTA may need to consider whether these issues should be investigated through a separate process and the extent to which practical opportunities exist to reduce the costs that these issues may impose on agriculture sector businesses.

²⁵ Tasmanian Farmers and Graziers Association correspondence to the Tasmanian Government, November 2013

5 Conclusion

Regulation is an important part of the business landscape. Well-designed and efficient regulations are necessary to manage risks to business, employees and the community. They contribute to social, environmental and economic objectives by influencing behaviour and outcomes. However, regulations that are excessive or impose unnecessary requirements can add to the cost of doing business and erode the competitiveness of business.

The compliance burden review on the agriculture sector engaged with a wide variety of businesses and their representatives to identify opportunities to reduce the regulatory burden on the sector.

A consistent theme that emerged from the business consultations was that regulatory issues affecting the sector are not caused by any single regulatory requirement. Rather, it is the cumulative burden imposed by a wide range of regulatory requirements that is of greatest concern. Several businesses also indicated that the overall regulatory burden imposed on the agriculture sector seems to be increasing over time.

While there is no ‘silver bullet’ to addressing regulatory burden in the sector, a concerted effort to remove existing regulatory burdens and prevent unnecessary new burdens from being introduced, regardless of how modest they may seem, can collectively lead to an overall reduction in the regulatory burden faced by farmers.

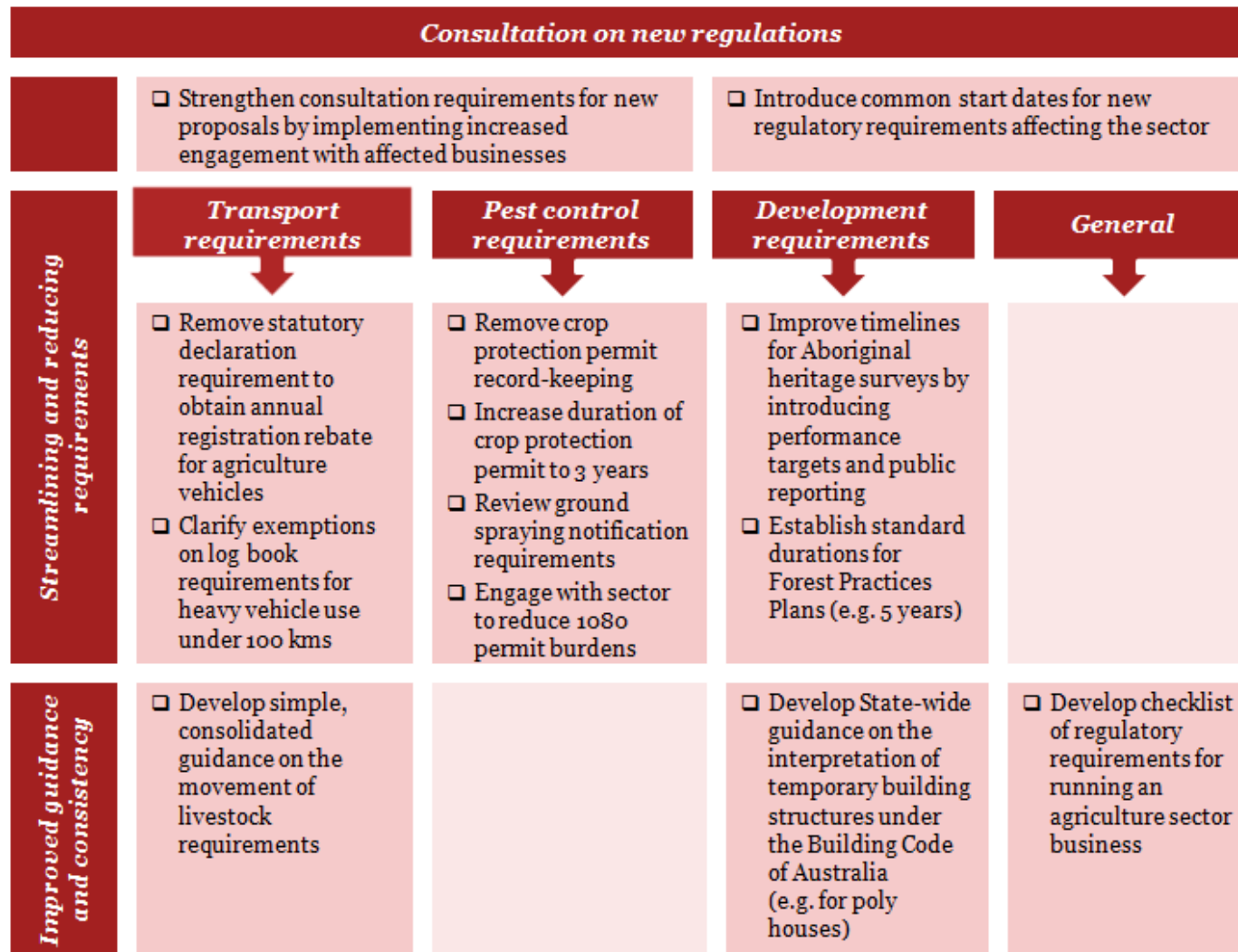
To that end, the compliance burden review has identified 13 opportunities to reduce the regulatory burden experienced by agriculture sector businesses. These opportunities are grouped into three broad categories:

- Improving consultation processes for new regulations
- Streamlining and reducing existing regulatory requirements
- Providing clearer guidance and consistency for regulatory requirements.

The opportunities identified relate to consultation requirements and a range of specific operational areas – transport-related regulatory requirements, pest-control requirements and development-related requirements.

Figure 3 on the following page provides a visual representation of the 13 opportunities.

Figure 3 – Summary of opportunities to reduce regulatory burden on the agriculture sector



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Appendix A Business consultations

PwC and the Department of Economic Development, Tourism and the Arts (DEDTA) undertook consultations with representatives from the following businesses and industry associations:

- Daly Gourmet Potatoes
- Leaning Church Vineyard
- Rhubru
- Simplot Growers Group (multiple farm businesses represented)
- Tasmanian Farmers and Graziers Association (including with Board members representing each of the five commodity councils²⁶)
- Tasmanian Quality Meats
- Woodlands farm

In addition, the Working Group provided significant input into identifying areas of regulatory concern and potential opportunities. The working group comprised the following membership at the project meetings:

- Fiona Wilson, DEDTA (Project Sponsor)
- Joanne Freeman, DEDTA (Working Group Chair)
- Jan Davis, Tasmanian Farmers and Graziers Association
- Paul Lupo, Houston Farms
- John Talbot, Tasmanian Quality Meats
- Andrew Craigie, Representing the Simplot Growers Group
- Sue Daly, Daly Gourmet Potatoes
- Georgia Palmer, Local Government Association of Tasmania
- James Abbott, Department of Treasury and Finance
- Penny Wells, Department of Primary Industries, Parks, Water and Environment
- Caroline Brown, Department of Primary Industries, Parks, Water and Environment

²⁶ The five commodity councils are meat, dairy, wool, vegetables and agriculture.

Business consultations

- Kerry Shepherd, Building Standards and Regulation
- Ian Paterson, Department of Education Skills Tasmania
- David Laskey, DEDTA
- Carole Rodger, DEDTA
- Filippo De Cesare, DEDTA
- James Graham, DEDTA
- Sam Abusah, PwC (Project Consultant)

Appendix B Regulatory burden reduction opportunities

The table below provides a summary of the key regulatory burden opportunities identified through the compliance burden review, as well as outlining the rationale for change, the applicable regulation (where relevant) and the responsible agencies.

#	Opportunity	Rationale	Guideline/Regulation	Agency responsible
1. Consultation for new regulations				
1	<p>Strengthen stakeholder consultation requirements for legislative and regulatory proposals by implementing greater engagement with affected businesses for proposals that are likely to have an impact on business. This could include:</p> <ul style="list-style-type: none"> developing best-practice guidance to encourage departments and agencies to consult with affected businesses during the policy development phase for legislative and regulatory proposals amending the Legislative Review Program manual to require targeted consultation with affected stakeholders for legislative proposals that are expected to have a moderate impact on business. (Currently, consultation is required only for those legislative proposals that are expected to have a major impact on business.) 	<p>Several examples were raised where new regulatory requirements were introduced without sufficient consultation with business to fully understand the business impacts. For example:</p> <ul style="list-style-type: none"> Regulatory changes in 2012 to ban battery hen farming and mandate free-range farming conditions for commercial egg-laying chickens proposed changes to ownership requirements for multiple guns that could impose significant additional burdens on farmers (particularly the proposed requirements for monitored alarm systems) <p>The benefits of greater engagement with affected businesses during the policy development phase include that proposals can be better designed to achieve their intended objectives, minimise the burden imposed on business and avoid unintended consequences.</p>	<p>Cabinet Handbook</p> <p>Legislation Review Program</p> <p>Subordinate Legislation Act (1992)</p>	<p>Department of Treasury and Finance</p> <p>Department of Premier and Cabinet</p>

#	Opportunity	Rationale	Guideline/ Regulation	Agency responsible
2	Consider the merits of introducing common start dates for new or revised regulatory requirements affecting the agriculture sector (for example, two dates each year).	Agriculture sector businesses find it difficult to keep track of new regulatory requirements and the commencement dates. Having common start dates would enable any training or information campaigns to cover all the changes that apply to that period. This would lower transition costs to farmers and could lead to higher levels of compliance with new requirements.	Cabinet Handbook Legislation Review Program Subordinate Legislation Act (1992)	Department of Treasury and Finance Department of Premier and Cabinet
2. Streamline or reduce requirements				
2.1 Transport requirements				
3	Remove the requirement for farm businesses to provide a statutory declaration (after the first year) to obtain the 40 per cent rebate of motor tax that is available to the registered operator of a commercial goods vehicle engaged in agriculture.	Currently, farmers are required to present in person on an annual basis to complete the statutory declaration in order to obtain the primary producer discount on the registration fee renewal for their existing farm vehicles. This can require a 2 hour roundtrip to Service Tasmania for each vehicle each year. Farm vehicle status does not generally change over time. An exceptions-based regime could provide the same benefits at significantly lower cost.	Vehicle and Traffic Act 1999 and associated laws	Department of Infrastructure, Energy and Resources Commissioner of State Revenue

#	Opportunity	Rationale	Guideline/Regulation	Agency responsible
4	<p>Engage with industry and provide guidance material to:</p> <ul style="list-style-type: none"> advise that agriculture sector businesses are not required under the National Heavy Vehicle Regulations to maintain log books for heavy vehicles (greater than 12.9 tonnes) when travel is within 100kms of their base clarify how the exemption operates and what residual requirements apply to drivers travelling within 100kms and how these can be demonstrated in practice. 	<p>Log book requirements for heavy vehicles are designed to monitor driver fatigue. Heavy vehicles used by farm businesses mainly travel distances under 50kms and so driver fatigue issues are less relevant.</p> <p>Under the National Heavy Vehicle Regulations, an exemption is available for distances of up to 100kms; however, awareness of the new exemptions appears to be relatively low (with some farmer businesses continuing to apply the log book requirements to short trips).</p> <p>Accessing the available exemption would reduce costs for business.</p>	National Heavy Vehicle Laws	Department of Infrastructure, Energy and Resources
2.2 Pest control requirements				
5	Investigate the removal of record-keeping and annual reporting requirements on the numbers and species of wildlife culled under a Crop Protection Permit, and consider replacing with a sampling-based approach to assess wildlife populations – for example, an improved approach to the existing spotlight counts undertaken by the Department of Primary Industries, Parks, Water and Environment.	<p>Farmers are required to keep records on the number and species taken under a Crop Protection Permit. Wildlife are usually hunted at night, multiple times per year and using multiple shooters. Anecdotal evidence indicates the required records are not maintained accurately due to their onerous nature. Replacing them with a more direct, sampling approach by the regulator could improve the quality of data available and reduce the regulatory burden on agriculture sector businesses.</p>	<p>Nature Conservation Act 2002</p> <p>Wildlife (General) Regulations 2010</p>	Department of Primary Industries, Parks, Water and Environment
6	Consider increasing the duration of the Crop Protection Permit that enables landowners to shoot wildlife to prevent browsing damage from 12 months to up to 3 years.	<p>Currently, the Crop Protection Permit duration is 12 months. The need for farm businesses to manage wildlife numbers to prevent browsing damage is ongoing.</p> <p>Increasing the duration of the permit to better reflect the ongoing nature of browsing damage prevention would reduce the burden on farmers, without adversely affecting policy outcomes.</p>	<p>Nature Conservation Act 2002</p> <p>Wildlife (General) Regulations 2010</p>	Department of Primary Industries, Parks, Water and Environment

#	Opportunity	Rationale	Guideline/Regulation	Agency responsible
7	<p>Review ground spraying notification and reporting requirements for commercial and agricultural operators to better align notification requirements with business needs – for example, allow the notification to identify a 5 day period during which the next spraying operation will occur.</p> <p>(This work would need to be cognisant of the reform of the national system for agricultural and veterinary chemical management and any implications for the State’s regulations.)</p>	<p>Commercial and agricultural operators are required to notify neighbours at least one day, but preferably two days in advance of spraying. There are a multitude of additional record-keeping requirements related to spraying.</p> <p>Agriculture sector businesses have indicated that the notification requirements are not sufficiently flexible from an operational perspective. For example, if spraying is delayed due to inclement weather, the business is required to re-notify all neighbours before spraying can occur. If this is not done sufficiently in advance of the new spraying time (to take advantage of weather conditions), the spraying cannot occur.</p>	<p>Code of Practice for Ground Spraying (February 2001)</p> <p>Agricultural and Veterinary Chemicals (Control of Use) Order 2001.</p>	Department of Primary Industries, Parks, Water and Environment
8	<p>Engage with the agriculture sector to develop options to:</p> <ul style="list-style-type: none"> reduce the regulatory burdens associated with obtaining a permit for the use of 1080 poison, without affecting the total number of permits issued develop guidance material on practical, cost-effective alternative methods to control browsing animals, building on the <i>Alternatives to 1080 Program</i> report in April 2011 and the Wildlife Management planning toolkit. 	<p>Several businesses advised that the requirements for the use of 10:80 poison were onerous and created significant costs for those businesses that were legitimately able to use it as a last resort measure.</p> <p>To the extent that the significant burden imposed on the use of 1080 poison is designed to limit its use, alternative mechanisms may be available to restrict its use while lowering the burden imposed on business. For instance:</p> <ul style="list-style-type: none"> Can requirements be streamlined for businesses that have previously obtained a 1080 permit? Can rejection criteria be clarified to avoid businesses applying for a permit which they are unlikely to receive? Are there particular geographic zones where multiple properties have been authorised to use 1080? 	Code of Practice for Use of 1080 Poison for Native Browsing Animal Management	Department of Primary Industries, Parks, Water and Environment

#	Opportunity	Rationale	Guideline/ Regulation	Agency responsible
2.3 Development-related requirements				
9	To improve the timeliness of businesses obtaining approval of Aboriginal heritage surveys for development projects (where required), investigate the merits of introducing: <ul style="list-style-type: none"> performance targets for the processing of Aboriginal Heritage Surveys annual public reporting on the actual performance of processing Aboriginal heritage surveys compared against the performance targets 	<p>Several businesses indicated that Aboriginal heritage survey requirements can increase the costs and uncertainty associated with expanding a business. They advised the timeline to obtain approval of an Aboriginal heritage survey can vary significantly, with timelines extending to several months in some cases.</p> <p>Unlike the other steps in the Aboriginal Heritage Tasmania (AHT) process, the survey-related timelines are outside of the parameters managed by AHT.</p>	Aboriginal Relics Act 1975	Aboriginal Heritage Tasmania, Department of Primary Industries, Parks, Water and Environment
10	Develop internal guidelines to issue Forest Practices Plans for a standard duration (for example, 5 years), unless there are specific circumstances to warrant a shorter duration permit being issued.	<p>There is no statutory time-limit for a Forest Practices Plan (FPP), although administratively they are not normally issued for more than 5 years.</p> <p>Businesses advised that the requirements to obtain a FPP are extensive and, at times, the FPP is issued for only two years. This imposes a burden on the business to renew the FPP after the second year.</p> <p>As the need to maintain cleared areas can be ongoing, the default FPP duration could be set at 5 years, unless there is a reason to justify a shorter duration for an individual permit.</p>	<p>Forest Practices Act 1985</p> <p>Forest Practices Regulations</p>	Forest Practices Authority

#	Opportunity	Rationale	Guideline/ Regulation	Agency responsible
3. Improve guidance and regulator consistency				
3.1 Overarching regulatory obligations				
11	<p>Develop a short checklist of the overarching regulatory requirements for running an agriculture business, with periodic updates of the checklist highlighting new or revised regulatory obligations affecting the sector.</p> <p>(These updates could be aligned with the timing of common commencement dates for new regulatory requirements – as per burden reduction opportunity 2.)</p>	<p>There is a wide range of regulatory requirements and codes that agriculture sector businesses need to comply with. Businesses commented that it is often difficult to stay on top of all the requirements. An overarching checklist that outlined the key regulatory requirements for running a farm business would:</p> <ul style="list-style-type: none"> • Reduce time taken by farmers to locate and understand the various requirements • Increase compliance rates with the regulatory obligations. 	<p>Various regulations and codes of practice</p>	<p>Department of Primary Industries, Parks, Water and Environment</p> <p>Department of Economic Development, Tourism and Arts</p>
3.2 Transport requirements				
12	<p>Develop consolidated, easy-to-understand guidance material on the requirements pertaining to the movement of livestock.</p>	<p>There are at least 9 different regulations and guidelines that agriculture sector businesses must be familiar with when moving livestock. All these requirements relate to a single activity.</p> <p>Consolidating the guidance for the movement of livestock would reduce confusion, address any overlap and possible inconsistencies between the requirements.</p>	<p>Animal Welfare (Land Transport of Livestock) Regulations 2013</p> <p>Animal (Brands and Movement) Act 1984</p> <p>National Heavy Vehicle Laws</p>	<p>Department of Primary Industries, Parks, Water and Environment</p> <p>Department of Infrastructure, Energy and Resources</p>

#	Opportunity	Rationale	Guideline/ Regulation	Agency responsible
3.3 Development-related requirements				
13	<p>Engage with Local Government to develop State-wide guidance material on the interpretation of temporary building structures in relation to poly houses or poly tunnels that are relevant to agriculture sector businesses</p> <p>(We understand that Building Standards has a project underway to investigate this issue.)</p>	<p>Business has advised that some councils have classified previously temporary structures as permanent structures. The practical effect is that a more complex building permit is required. This issue relates to the construction of a poly house to grow plants in a protected environment.</p> <p>The inconsistent treatment across councils increases uncertainty for business, as well as increasing regulatory burden.</p>	Building Code of Australia	<p>Building Standards</p> <p>Local Government</p>

Appendix C Additional issues raised by business

The list below contains issues that were raised by business during the consultation process but where a practical and effective red tape reduction opportunity was not identified during this review. These issues generally met fewer of the prioritisation criteria used to determine the issues progressed in the report. These criteria include whether:

- the issue was raised and confirmed by a number of businesses
- the issue was considered to be systemic in nature
- a potential opportunity had been identified that would not compromise the underlying policy objectives.

It is acknowledged that further investigation of the additional issues identified below may enable viable options to be developed. These additional issues include:

- 1 Firearms licensing (5 year licence durations have replaced the previous lifetime licences)
- 2 Firearms licensing (Statutory Declaration with Justice of the Peace sign-off for certain weapons)
- 3 Requirements for growing industrial hemp – there are as many regulations around growing hemp as there are for opiate poppies, despite it being a product with negligible drug content²⁷
- 4 Multiple pieces of legislation play a role in governing an agriculture sector business' ability to conduct back burning on its property²⁸
- 5 Forest Practices Plans are a slow and costly process that need an overhaul²⁹
- 6 Water allocations provided under the National water reforms and the impacts on existing dams
- 7 Dam permit applications
- 8 OHS signage requirements for personal protective equipment (required if employing staff in agriculture businesses with particular equipment)
- 9 Oversize vehicle restrictions that prevent four metre wide harvesters from being used in agriculture sector businesses
- 10 Various review (appeal) processes for administrative decisions that affect the agriculture sector are considered to be too slow and costly.

²⁷ Tasmanian Farmers and Graziers Association correspondence to the Tasmanian Government, November 2013

²⁸ *ibid*

²⁹ *ibid*

Additional issues raised by business

