Australian Government

Department of Home Affairs

Mr Jason Lange
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Department of the Prime Minister and Cabinet
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BARTON ACT 2600

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Dear Mr Lange

Regulation Impact Statement – A risk management program framework for critical infrastructure assets – Second Pass Final Assessment

I am writing in relation to the attached Regulation Impact Statement (RIS) prepared for a risk management program framework for critical infrastructure assets.

I am satisfied that the RIS addresses the concerns raised in your letter of 4 February 2022. Specifically, the following concerns were raised by the Office of Impact Assessment:

- Under option 3.2, the statement "Information gathered during this assessment has been used to identify those sectors in which current risk management practices are insufficient for protecting the security and resilience of critical infrastructure assets". Can you please provide a list of the insufficiencies? This could be included in the annex.
- Including totals in Table 8, Table 9, Table 10, Table 14 and Table 15.
- Amending the 'Total Ongoing Costs' column in Table 11 to reflect the total 10-year estimate for those ongoing costs, and then present the total average annual regulatory burden estimate (one-off and ongoing costs) over that 10-year period either in that table or below it.

These have been address by:

- Clarification on the insufficiencies outlined in point 3.2 has been provided as part of Appendices G – R, which outline via tables specific to the industry, the existing legislation and the identified gaps. For example, electricity (Appendix G) highlights seven areas of Commonwealth legislation, state and territory (including equivalent) legislation, and licencing regulations with risk management requirements or elements that currently apply to the sector. The identified gaps between the existing legislation or obligations and those proposed under the Risk Management Program (RMP) rules have been outlined. This process has been repeated for all other sectors (Appendices H – R).
- Cost totals have not been added to Table 8, Table 9, Table 10 or Table 15 as per the OIA recommendation for the following reasons:
    - Table 8 and Table 9 provide separate scenarios for each asset class. There is no numerical relationship or value equivalence within each column. As such the inclusion of a total row infers a degree of correlation that is not present for outside of each asset class for each scenario.
    - Table 14 is text-only and cannot have numerical totals derived.

    - Table 15 is similar to Tables 8 and 9 in that there is no numerical relationship or value equivalence between listed values within each column.
- Table 11 has now been split into two tables (Table 11 and Table 12) to allow for increased clarity. The information pertaining to ongoing costs outlined by OIA for review is now contained in Table 12. It is noted that footnote 48 outlines that total costs are calculated from the year after implementation is required as outlined by the rule. For example, if an entity has 2 years to implement changes, then costs would start from year 3. As such, values in this table have not been changed when calculating for the 10-year reference period as costs are not ongoing during the years in which implementation is undertaken.

Further to the above:

- Costings for food and grocery asset class entities were conducted during October 2022. Details on consultation and cost analysis have been added in new Appendices R (Supplementary information for critical food and grocery assets) and CC (Detailed costing information for critical food and grocery assets).

The regulatory cost across all sectors is a one-off impact of $1,601.0 million with annual on-going cost of $1,076.3 million per year. The regulatory cost over the first 10 year period is $11,503.6 million[1].

Net increases in regulatory costs for responsible entities of critical infrastructure assets, in complying with the risk management program, are likely offset by direct and indirect regulatory savings. The process used to determine offsetting regulatory savings, in this RIS, is through the calculation of both direct and indirect avoided costs for each critical infrastructure asset. Direct avoided costs refer to the financial impacts directly incurred as a result of an incident, while indirect impacts refer to flow-on costs to the economy due to supply chain linkages and other feedback responses by all economic agents (e.g. households, businesses). A break-even analysis of these avoided costs (being the benefits of the regulation) compared to the total estimated cost of the RMP framework highlights that the likely benefits, in avoided costs, of the RMP framework will be at least (and expected to be much more) than the cost of regulation. Thus any increases in regulatory costs for responsible entities of critical infrastructure assets is being covered by offsetting regulatory savings in the form of direct and indirect avoided costs.

Accordingly, I am satisfied that the RIS is now consistent with the six principles for Australian Government policy makers as specified in the *Australian Government Guide to Regulatory Impact Analysis*.

I submit the RIS to the Office of Impact Analysis for formal final assessment.

Hamish Hansford
Group Manager
Head – Cyber and Infrastructure Security Centre
Department of Home Affairs
25 November 2022

[1] For the purposes of calculating a total 10 year cost of compliance with the RMP framework, ongoing costs were assumed to commence in the year after the required implementation date (for example, for a rule requiring implementation within 2 years, the ongoing costs associated with the rule were assumed to start in year 3 of the 10 year period).