



**Australian Government**

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**Department of the Prime Minister and Cabinet**

Office of Best Practice Regulation

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Mr Martin Hehir  
Deputy Secretary  
Workplace Relations Group  
Department of Employment and Workplace Relations

Dear Mr Hehir

**Regulation Impact Statement – Second Pass Assessment – Enterprise Bargaining Outcomes from the Australian Jobs and Skills Summit**

Thank you for your letter received 22 October 2022 submitting a Regulation Impact Statement (RIS) for formal Second Pass Final Assessment. I note the RIS has been formally certified at the Deputy Secretary level consistent with the *Australian Government Guide to Regulatory Impact Analysis* (the Guide).

I appreciate the Department's constructive engagement on the RIS. The Office of Best Practice Regulation's (OBPR's) assessment is that the quality of the regulatory impact analysis in the RIS is adequate and therefore sufficient to inform a decision.

To have been assessed as good practice under the Guide, the RIS would have benefited from:

- further analysis of the potential impacts on productivity, real wages and other distributional impacts, in particular on gender. The OBPR acknowledges the Department's statement that best attempts were made to analyse impacts on individuals and businesses to the greatest extent possible, despite limits to the macroeconomic and observational data available.
- presenting alternative options in addition to the status quo that substantially address the problems identified in the first question. It is unlikely that any of the options presented as option three would have genuinely been considered as a way of solving the policy problem.

- statements or evidence that the regulatory costs and their assumptions had been tested with stakeholders, or otherwise an acknowledgement why this had not been undertaken.
- a clearer explanation of the barriers the Government may face in achieving the identified indicators of success, and the pre-planning undertaken to mitigate these potential risks.

The OBPR notes your certification letter highlights the challenges of engaging stakeholders in a public fora on the impact analysis for highly contest workplace relations policy changes. The OBPR has therefore taken this into account in its final assessment. However, the RIS would have been stronger if it identified, even at a high level, the way in which stakeholder feedback influenced the shaping of policy options.

Given the difficulties predicting and measuring the likely impacts of the measures in this RIS, coupled with the possible widespread impacts on the Australian economy, a post-implementation review will need to be completed within five years following implementation.

The RIS may now be provided to the decision-maker to inform a final decision. To support transparency, the RIS must also be included in the Explanatory Memorandum to legislation giving effect to a decision.

After a final decision has been announced, I ask that your agency work with OBPR to finalise this material for public release. This includes providing a copy of the RIS in Word and PDF format for web accessibility purposes.

If you have any further queries, please do not hesitate to contact me.

Yours sincerely



Jason Lange  
Executive Director  
23 October 2022