

Summary of initial business feedback on red tape issues

On 5 July 2019, CCIWA launched its [Red Tape Portal](#) to enable members to provide feedback about red tape and regulatory issues affecting their business. CCIWA has also been collecting input from members regarding red tape and regulatory issues via ad hoc enquiries and one-on-one meetings.

Defining red tape

Most regulation is implemented with the intent of achieving a public interest, such as safe food and a safe workplace. This is typically defined as objectives of an Act or regulations that provide for licensing or permitting. Businesses agree with these public interests and must meet regulated standards on an ongoing basis to operate.

Businesses define red tape as an unnecessary and excessive burden that is imposed on regulated parties by either the regulation itself or the way it is administered by public agencies, which does not achieve a public interest. For example, agencies can impose delays that are not necessary to achieve a public interest and that impact businesses. This directly harms investment, employment, productivity and the public interest in jobs and investment.

Businesses have raised around 60 highly specific red tape issues that have affected their business with CCIWA, described below and in Appendix 1. The below provides Streamline WA an overview of the key themes and issues collected from CCIWA members.

Major problem areas raised by businesses include:

- Planning approvals
- Building approvals
- Liquor regulation
- Resources approvals
 - Mineral approvals
 - Quarry issues
- Environmental approvals
- National standards
- Compliance with Australian Tax Office (ATO) requirements
- Employment law
- OH&S compliance
- Industry-specific regulatory matters (VET, financial advisory and health and community services)

There are five common themes in feedback across most areas of regulation:

1. **There is poor access to information on regulatory requirements in plain English.** Agencies and councils do not make the rules and their requirements sufficiently clear to help regulated parties understand the requirements at the outset of an investment decision.
2. **There are unnecessary approvals** for minor changes such as normal business activities on land that has been designated for commercial, industrial and agricultural uses. These minor changes trigger lengthy and uncertain approval processes.
3. **Agencies repeatedly request further information and excessive detail, causing large delays.** Agencies repeatedly request consultant reports and plans and changes to plans, imposing large costs.
4. **Agencies impose unnecessary and costly requirements** that were not clear upfront.
5. **Key Performance Indicators (KPIs)** – agency reporting and KPIs do not reflect the length of approval processes from start to finish.

Initial list of red tape issues raised by businesses

Red Tape Hotspot 1: Planning and Building

Poor information and guidance on regulatory requirements

1. Many businesses have advised they consider that councils and government agencies provide poor information on what planning requirements apply. For example:
 - One business stated that it sought advice from councils to understand the requirements. However, the business said that it is becoming increasingly difficult to gain a written opinion from a Shire officer and councils are now deferring requests to formal planners or engineers rather than responding with zoning guidelines. Businesses advise that this increases the risk and uncertainty associated with projects, increases costs and delays small-to-medium projects.
 - Another business stated that many local governments provide little assistance to proponents when it comes to lodging planning and building applications. Councils do not often provide opportunities for preassessment of applications or advice on the level of information needed upfront. This can cause large delays that impose large costs on businesses – due to requests for additional information and rework that usually result in an application being returned to the back of the queue. Councils previously would provide for pre-assessment of applications for a small fee – and that this helped to identify and rectify issues earlier rather later in the process.
2. One business stated that planning regulation is overly complex and not user-friendly for small businesses. The business stated this can stop activity and cause delays, or cause non-compliance (and more legislation).
3. Poor information about change of use - many businesses noted the large degree of ambiguity in the information provided to them and the long timeframes required when seeking approval to change the use category of a premises.
4. Poor communication between council planning and building - a council planning officer indicated that the council did not need to approve a commercial fit-out because it was below a minimum spend, and then the council building inspector requested a copy of the planning approval. This occurred because the council planning and building departments do not communicate with each other, imposing unnecessary costs and delays.

Unnecessary approvals

5. Requirement for businesses to apply for a permit for a council to assess and approve a solar panel installation for commercial buildings.

Repeated requests for information that cause excessive delays

6. *“It is impossible to deal with [councils] at all. Local council delays, lack of interest and totally blasé attitude has meant that completion of a simple warehouse has taken almost 3 years. Never again will we build - simple as that.”* (Unnamed businessperson, 2019)

Agencies impose unnecessary and costly requirements

7. Duplex blocks – if you sell two blocks separately the purchaser can build a standard house. But if you build on those blocks and look to sell you fall under development legislation. This imposes excessive costs on duplex blocks. One business had to install two \$10,000 commercial soak wells and a driveway drain to contain all run off water, to no end financial benefit.”

Public art contributions

8. Council planners require that businesses starting projects with a value of \$2 million or greater must pay at least 1% of the construction value to public art, as a condition of approval. This has affected several businesses starting up new projects on industrial land. It has directly increased the cost of starting a new business on industrial land by at least \$20,000. This also causes additional planning delays of four weeks to ten weeks to new businesses and harms business productivity and competitiveness.
9. Council planners require that developers of commercial projects pay 1% of construction value to public art, as a condition of approval (as above)
10. Council planners require that developers of residential projects pay 1% of construction value to public art, as a condition of approval (as above).

Change of use issues

11. Change of use imposes large delays and unforeseen requirements - businesses advise that councils can often use change of use applications as an opportunity to impose additional and sometimes unnecessary requirements on business that impose large costs and delays.

Case study and red tape issues:

Background: an international manufacturer signed a lease for a commercial premises that it intended to use for both manufacturing and office/consulting shop type activities. The site was previously used as a commercial premises and came with parking.

12. The business applied for a building permit, but because it was looking to include two consulting rooms in the building, the manufacturer was told that it would first need to seek approval for a change of use – requiring a planning application beforehand. This caused delays and costs.
13. Council officers request landscaping plans for commercial properties – causing longer delays. The business provided these plans, then the council requested that the plans were amended to remove some of the parking and include new landscaped garden beds. Due to the loss of the parking and the delays, the business terminated the lease after nine months. This imposed large costs on the proponent and the landlord. Similar problems have affected other commercial projects.
14. Requests for landscaping plans - councils have often imposed overly restrictive planning conditions around the type, nature and level of landscaping required in change of use situations as well as new developments. Councils then specify these changes as a condition of approval.
15. This process caused a 6-9 month delay. The council repeatedly requested information, causing additional delays.

Issues with Key Performance Indicators

16. Many businesses have indicated that councils frequently take the maximum number of statutory planning days that are permitted under planning regulation.
17. A business advised that even for certifying other plans and providing a statement of compliance, one local council takes a maximum of 10 days to certify that the plans are in order.

Red Tape Hotspot 2: Liquor regulation

Liquor

18. Businesses have noted that there are overlapping and contradictory requirements between councils' building and health regulations and the Department of Racing, Gaming and Liquor. For example, council building and health regulations have a specific method of determining how many toilets a licenced venue requires (see [NCC 2019 Volume One](#)). However, the Department of Racing, Gaming and Liquor has [additional building requirements to these requirements](#) outlined in the National Construction Code for licensed premises, including a different formula to calculate the number of toilets required, which is applied as a condition of approval. The liquor regulator only assesses an application and advises the toilet requirements once applicants have already gone through planning and building approval. The impacts on business include:
 - a. requiring businesses to invest in new premises before finding out that additional requirements apply, causing delays; and
 - b. requiring the business to do additional and costly building and plumbing modifications to retrofit additional toilets in a building after a fitout has already been designed or concluded.
19. The liquor licensing authority only assesses an application ex-post. This causes additional regulatory uncertainty and delays, imposing costs on business.
20. In order to apply for a liquor licence, new entrants are asked to prove that there is a public interest in the licence being granted. This is a very high burden of proof. It appears that this requires new businesses to invest in a site, gain other regulatory approvals and then do a benefit-cost analysis to try and start a business. The impact on business is that this causes:
 - a. long delays;
 - b. regulatory uncertainty;
 - c. a proponent to engage a consultant to conduct a study and do a cost-benefit analysis which cost \$70,000-\$80,000;
 - d. prior to additional requirements and conditions being outlined.

This is a costly and inefficient way of ensuring that new businesses meet regulatory requirements. It would be useful to outline clear requirements to ensure that businesses can identify and meet the requirements.
21. The liquor licensing authority requests information to assess a business's business plan and commercial viability, in the liquor licensing process, causing additional complexity and delays.
22. CCIWA has also been advised that the Police Commissioner objects to every liquor licensing application in WA.
23. One business advised that reasons for an objection are not provided to a business. This makes it difficult for a business to address the objection and meet the regulatory requirements, imposing costs.

Red Tape Hotspot 3: Resources issues

Resources Part 1: Mining industry

Management and resourcing issues

24. Many businesses have experienced problems with documents that sit in departmental inboxes and are not assessed. This delays agency staff from opening and assessing applications – this often causes an additional 30 days to permit applications
25. It appears that some agencies do not have the flexibility to engage additional resources to approve projects in a timely manner, causing a backlog of projects. Some agencies insist that they can only assess two projects from a business at one time.

Design issues

26. There are sometimes requests for information and excessive detail on matters covered under other approval processes, causing duplication and additional delays.
27. There is a lack of risk-based assessment. Some court cases have caused agencies to become very conservative and subject all proposals to the highest possible level of assessment and public review.

Some assessments cause problems, some must be done linearly rather than in sequence

28. Some businesses have experienced long delays due Part IV EPA assessment. One business estimated that a Part IV EPA assessment took around four years from the start of an application through to a decision.
29. If there is a Part 4 assessment – no other approvals can be granted until after this has been provided. This causes additional delays to projects.
30. Linear infrastructure approvals: when there is multiple tenure there are many sets of approvals for the same set of issues. Agencies require each approval to be addressed in sequence (1,2,3,4) before the next approval can be granted.
31. DMIRs will not assess a proposal for a mining tenement that has not yet formally been granted. A business advised that this requires applicants to deal with sequential approvals, rather than progressing permit applications in parallel. The business estimated that if it were possible to lodge applications with DMIRs in advance, this would save around 6 months out of the total process.
32. Aboriginal Heritage assessments - agencies have requested projects to go through assessment processes, but work is not occurring in a sensitive area (where assessment would be required).
33. The bilateral arrangement for the State to undertake assessments under the Environment Protection and Biodiversity Conservation (EPBC) Act has fallen away. This has resulted in duplicative environmental assessments. Proponents cannot get an EPBC approval until the State has signed off.

Poor case management and issues with KPIs

34. It appears that agencies do not have the correct incentives to process permit applications in a timely manner. Agencies report on the number of days they spend assessing a project, rather than the delay experienced by a business. For example, agencies report that the days taken to assess a permit can be measured in single digits, but the true delay to the start of a project can be in the triple figures. The typical response from an agency is that the KPIs are being met. This is likely because the KPIs do not reflect the lived customer experience.

Resources Part 2: Quarry industry

Background: Some businesses have raised issues that are affecting the supply of construction materials to WA. These issues fall more broadly than just red tape and highlight a bigger issue that drives up the cost of materials for construction in WA. This affects commercial, government and residential construction (including the provision of affordable housing). Common themes include:

- The sterilisation of construction materials in Greater Perth, reducing supply and driving up costs
- Increased regulatory risk and uncertainty, affecting investment decisions.

Some examples include:

Examples of roads dissecting quarries and sterilising resources

35. A major resource supplying WA and the international market was cut in half by a proposed road. The effects of this on the business include:
- a. the sterilisation of resources and
 - b. assets and resources on the site cannot be used to transport goods; and
 - c. the duplication of assets to access the remaining resource.
36. Another quarry has been impacted by a road running between its approved quarry. The relocation of the road could sterilise significant resources and affects the operation of the quarry (Main Roads WA).

Long delays and added requirements that increase the cost of construction materials

37. A new planned affordable housing development has been placed partly next to and on top of part of a resources lease. This has:
- a. increased the likelihood that these resources are sterilised prior to the business being unable to develop these resources; and
 - b. reduced the supply of construction materials and increased housing costs
38. A business was requested to change the staging of an approved quarry extension so that its works are not visible. The effects of this on the business include:
- a. spending over \$5 million to relocate utilities so that work on the quarry could continue;
 - b. reduced production,
 - c. added costs and adversely affected customer relationships
39. The approval for another quarry has taken over 10 years.

Supply of construction materials

40. The decision to make a “change of use” to close two concrete batching businesses in 2024 will impose large costs on businesses and drive up the cost of construction materials across Perth. The effects of this include:
- a. The change will remove 80 per cent of the supply of concrete for central Perth projects.
 - b. It appears that it will no longer be possible to supply concrete to the city in morning hours that meets Australian Standard 1379. Concrete must be mixed, transported and placed within a 45 or 60 minute window in tandem with other concrete pours to meet Australian Standard 1379. These timeframes allow 15-30 minutes for transportation.
 - c. It appears that this will require additional nighttime work, including concrete pours, due to heat and transport issues during the day
 - d. This will increase costs.
41. CCIWA has estimated that additional transport costs will impose additional costs of \$100-\$200 million to build the dwellings proposed in Perth and Peel @3.5 million, depending the distance that resources need to be transported.

This will impose additional costs of \$1000-2000 per dwelling. Note that this estimate does not yet factor in the issues above.

42. Concrete plants have also experienced very long planning delays, with some taking several years. This means that Perth will experience a reduction in 80% of the current supply of concrete to the central metropolitan area, without any additional resource coming on board close to where projects will be built.

Red Tape Hotspot 4: National Standards

Summary of key issues with the Standards regime

43. The process of certifying a new product under Australian Standards has caused in excess of a 3-year delay to a new product. The business has designed and patented a new product and applied for certification. However, the process of applying for certification and seeking agreement from a technical committee to amend the standard has caused excessive delays.
44. Some Australian Standards outline excessively prescriptive requirements that do not help to permit entry by new products that have improved performance outcomes but slightly different designs, causing large delays. There are several issues that are caused by:
 - a. poorly designed standards that are excessively prescriptive; and
 - b. excessive levels of interpretation and governance issues with the technical committees.

Other issues:

45. Magistrates court delays - businesses describe some bureaucratic processes have very little regard for the users of their systems. For example, the inability of the Magistrate Court to provide business with approximate hearing times for civil cases, means that small business can have staff tied up for a whole day waiting to provide evidence in order to resolve simple residential tenancy claims.
46. Health sector – a range of business have described how overly prescriptive regulation can stifle the ability of businesses to innovate. For example, a business in the health care sector seeking to provide hospital-like treatment for people in their own home cannot become a Medicare provider due to outdated legislative requirements. This has a range of flow on implications, including limiting these services to wealthy individuals and entrenching a substandard quality assurance regime.
47. Heavy vehicles – excessive documentation requirements for drivers, in excess of 50 pages

Appendix one: responses received from CCIWA's Red Tape portal.

Red tape issue description	What changes would you recommend and how would this help your business?
<p>1. Health - We are a health service. We provide Hospital Substitution Treatments (HST). This is a legislative term. We provide inpatient services to patients in their own home. Like a hospital without walls.</p> <p>We cannot get licenced (Different state requirements) because only a hospital can be licenced, ie an actual building. Because we cannot be licenced we cannot get a Medicare Provider Number (MPN) FEDERAL requirement.</p> <p>Because we cannot get a MPN we cannot access software used by doctors and hospitals so therefore we cannot compete with the existing medical model. We cannot bill electronically. We cannot access data by government. What's more because companies like us cannot be licenced there are NO regulations.</p> <p>That means NO requirements for even basic rules like ensuring the nurses wash their hands. This means this whole market is unregulated and any cowboy can enter the market if they want.</p>	<p>Five words in legislation would change everything. If the health act of 1927 said "only a hospital or hospital substitution treatment service can be licensed" then everything could be licensed and regulated. And fair. No barriers to entry of good medical services for patients.</p>
<p>2. Magistrates Court organisation, ATO changes</p> <p>Waste time hence money</p>	<p>Schedule Magistrates Court attendances- currently property managers have to be there before 9.30am and could sit around all day. Residential tenancy regulations need to be streamlined and focus on owner protection not tenant</p>
<p>3. Delays in manufacturing of industry related components, Support of Education and Training and keep the business operating</p>	<p>Introducing a special visa to attract skilled workers including their families. Increase the educational standards. Cut the payroll tax to free up money for businesses to invest in the local workforce.</p>
<p>4. Approvals for change of use take far too long. When a new business leases a premises and the use of the premises is changing from the previous use, the council need to approve it.</p> <p>The application takes time to prepare because the council require plans of the fit-out. The application gets lodged and is dealt with within 60 days. Often the planning officer requires further information, which is a commonly used tactic to buy more time and extend the latest date for the</p>	<p>If a new use is a permitted use under the council zoning, then it should be dealt with within 14 days. The application should not sit behind other applications for carports and patios and the like, which is exactly what happens now.</p>

Initial list of red tape issues raised by businesses

	<p>decision. In the meantime, the landlord is left with an empty building and is paying the statutory charges and the new business can't even begin to fit-out the property because of the uncertainty of the approval.</p> <p>The cost to the property owner is for this time wasted is huge. The cost to the business caused by the delay is huge.</p>	
5.	<p>Approval process is slow and cumbersome resulting in many frustrations and delays for infrastructure construction and unnecessary costs</p>	<p>I see a need for the decision-making process to be clearly upfront without additional add on demands.</p>
6.	<p>Subcontractor legislation, overlapping application requirements for similar funding approval</p> <p>Delay to put application together and send off, uncertainty about legal status of business although doing "the right thing", additional cost</p>	<p>de-regulate subcontracting requirements and simplified application processes for funding models would save a lot of time and worry, and attract more clients to my business</p>
7.	<p>Single Touch Payroll</p> <p>Slows me from doing other jobs for my guests.</p>	<p>Single Touch Payroll which isn't at all single touch and is a pain. I understand why it is necessary, but it could hardly have been made more complex.</p>
8.	<p>Regulatory delays</p> <p>Loss of confirmed contracts due to inability to delivery on time.</p>	<p>Regulation that is consistent and in line with that of our rivals in other western countries</p>
9.	<p>Tax system has a detrimental effect on the cashflow of business when they are attempting to grow.</p>	<p>Overhaul of the current tax system on business.</p>
10.	<p>The quantity of paperwork required by the regulator to capture compliance results in a primary focus on paperwork as opposed to the training of students. Paperwork appears be a priority over student experience and quality of training. Poorly designed regulations are resulting in substandard training practices and poor student outcomes. This is not due to the shortcomings of the RTO, but due to desperation to meet unrealistic compliance requirements.</p> <p>With regards to the 2016 VET Reforms, Mister Birmingham was only focused on a very short-term goal and had no regards for the future of VET in Australia. An example of this was the removal of hundreds of vocational courses from the VSL list. Universities took advantage of this and what was previously delivered for approx. \$15,000 as a VET course is now delivered as a \$50,000+ degree under Fee-Help - overall, costing taxpayers more. I'm happy to provide evidence on how and why this has occurred within my own RTO.</p>	<p>I would recommend our regulator (ASQA) make all changes based on the Joyce Review.</p>

Initial list of red tape issues raised by businesses

11.	Delays in giving advice for clients and arranging what they want done.	Shorter advice documents and less duplication of notes. Having one process throughout the industry which is efficient in Giving Financial advice.
12.	<p>The disability provider sector was previously regulated by the State Government's Disability Services Commission at no cost. Effective 01 July 2020 all WA NDIS registered providers will be regulated by the Commonwealth Government's NDIS Quality and Safeguards Commission; an independent agency established to improve the quality and safety of NDIS supports and services.</p> <p>It regulates NDIS providers, provide national consistency, promote safety and quality services, resolve problems and identify areas for improvement. The cost will be borne by those organisations being evaluated/audited. This can be a significant increased financial burden on small to medium size organisations. There is an expectation that this will add to the administrative burden of service providers.</p>	Small to medium sized NDIS registered providers ought to be provided with transition funding to support help offset this additional expense and administrative burden.
13.	<p>Doing business in the Vocational Education sector results in an extreme amount of regulation compared to other businesses. We report to several different gov agencies and the data is often not shared between these agencies. Our regulator uses a punitive approach rather than supportive. In the last two years we have endured 4 audits, RTO reaccreditation, CRICOS, VET Student Loans and ATO Payroll Tax audit meaning that all resources were used in responding to this rather than our core business of education. It cost our business a significant amount of money to respond effectively to these audits. The results of audits are slow to be released. Our VET funding has been cut from our most popular courses and the course caps slashed resulting in students having to fund part of their study themselves. Enrolment numbers in the private RTO sector are dropping to the stage that it's difficult to stay in business.</p>	That data is shared when ever possible. That regulators support and assist RTOs to become compliant rather. That the government behave fairly and give the VET sector the same opportunity as TAFES and Higher Education Providers. Increase course caps and open up eligible course scope.
14.	Duplication of requests for licences and training for WHS	Have a single WHS licence that all we have to do is show this, also a single national security licence