

Step One - Define the Outcome



PURPOSE STATEMENT

Shape a future that maximises the potential of people, technology and the planet.



Step One

Define the Outcome



PRINCIPLES

- An outcome well defined, is a problem half solved
A clear articulation of the desired policy outcome is at the heart of all good tech policy design.
- Designing tech policy is a journey, not a destination
Just like technology, good tech policy is agile and constantly evolving.
- Good tech policy is responsive and timely, it creates clarity and certainty
Effective communication is critical.
- Consultation is a theme, not a step
When designing tech policy, consult often, transparently, and widely.
- Be responsive, foster feedback loops
Tech policy can be contentious, consensus is not always possible, but demonstrate all voices have been heard and considered.



LEAD ACTORS

Australian Public Service (APS) lead policy department (at own initiative or as directed by Minister/Cabinet) or Industry/NGO/Civil Society

Steps One to Three can occur external to the APS but, unless robust, will reset to Step One when the APS is tasked to initiate the policy proposal



Continue to Questions

Step One - Define the Outcome

PURPOSE STATEMENT

Shape a future that maximises the potential of people, technology and the planet.

1 Step One Define the Outcome

QUESTIONS

OUTPUTS

☐ What is the desired outcome?

☐ What is the problem or opportunity the outcome is trying to solve or harness?

☐ Why is government intervention needed? What is new or novel about the tech?
How are the existing frameworks not working to take into account the disruption?
What are the gaps/deficiencies the outcome seeks to address?

☐ What specific tech expertise is needed to understand the problem or opportunity?
Who holds that expertise?

☐ Who is the policy lead within government? Where does the authority to act/head of power lie? (In Australia the Administrative Arrangement Orders (AAO) formally allocate executive responsibility among ministers and set out which matters and legislation fall within the responsibility of which government department or portfolio).

☐ Who are the key stakeholders (across government, industry (large and small), civil society (individuals and organisations))?

Can you answer each Question?

 If no, consider an independent Inquiry

 If yes, proceed to Step One, Outputs


Continue to Outputs



PURPOSE STATEMENT

Shape a future that maximises the potential of people, technology and the planet.



Step One Define the Outcome



QUESTIONS



OUTPUTS

- ☐ Draft Outcome Statement (for example: the outcome we want is X)
- ☐ Prepare Gap Analysis (for example: the problem or opportunity we are solving for is Y, government intervention is required because Z)
- ☐ Develop a list of required expertise (technical, legal, policy etc.)
- ☐ Identify APS policy lead and head of power or authority to act
- ☐ Prepare Stakeholders Map and Engagement Plan

Can you prepare each Output?

- A** If no, consider an Independent Inquiry
- If yes, proceed to Step Two

 Continue to Step 2

Step Two - Identify the Options

2 Step Two Identify the Options

PRINCIPLES

- Regulation should not be the default, consider all available options
Choose the most proportionate and fit-for-purpose solution
(remember: bad ideas do exist).
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Continue to Questions

2

Step Two

Identify the Options



QUESTIONS



OUTPUTS

☐ What options are available?

☐ Is regulation the best option to achieve the desired outcome? Are there other means that could achieve the outcome more efficiently and effectively?

☐ Does a solution already exist? Has the problem already been solved? Are there existing tools (including in different or adjacent domains) that could be applicable? Is there precedent (domestically and internationally)?

☐ What evidence is available to support an assessment of the effectiveness of the options?

☐ Have you consulted experts and stakeholders to identify all viable options, including not regulating?

Can you answer each Question?



If no, consider an independent Inquiry



If yes, proceed to Step Two, Outputs



Continue to Outputs

2

Step Two

Identify the Options



QUESTIONS



OUTPUTS

- ☐ Hold consultations with stakeholders and experts to identify all available options
- ☐ Prepare a map of existing measures domestically and internationally
- ☐ Prepare a map of existing measures in adjacent domains that could be transferable
- ☐ Draft a provisional list of options

Can you prepare each Output?

- A** If no, consider an independent Inquiry
- If yes, proceed to Step Three



Continue to Step 3

Step Three - Assess the Options

3 Step Three Assess the Options

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Continue to Questions

Step Three - Assess the Options

3 Step Three Assess the Options

QUESTIONS

OUTPUTS

- ☐ What is the likely net benefit of each option, including no action?
- ☐ Are the benefits proportionate and fit-for-purpose? Will the options deliver the outcome? Do the benefits of the outcome justify the means?
- ☐ How will the options interact with existing domestic regulation? Are the options consistent with prevailing international approaches? If not, has the rationale for departure been explained?
- ☐ How will the option impact adjacent and interdependent domains? What are the possible/likely unintended consequences of the options?
- ☐ Will the options provide regulatory certainty for investors and business?
- ☐ How could the options be abused or misused? What safeguards are needed?
- ☐ What are the budget implications? Is budget available? Can offsets be identified? Are new monies required?
- ☐ Taking into account all of the above, what is the best option from those you have considered?

Can you answer each Question?

- A** If no, consider an independent Inquiry
- If yes, proceed to Step Three, Outputs


Continue to Outputs

Step Three - Assess the Options

3 Step Three Assess the Options

QUESTIONS

OUTPUTS

☐ Consult with stakeholders and experts to assess the impact of options

☐ Prepare an Options and Impact Analysis Assessment (known in Australia as an Regulatory Impact Statement).

☐ Identify the best option to achieve the outcome (for example, the desired outcome is X, the problem/opportunity we are solving is Y, government intervention is required because Z, the options we considered were A, B, C, the best option is D because [insert Option and Impact Analysis]).

Can you prepare each Output?

A If no, consider an independent Inquiry

If yes, is the preferred option not to regulate?

B If yes, proceed to Exit Ramp

C If no, proceed to Step Four



Continue to Step Four

Step Four - Advice to Government

4 Step Four Advice to Government

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LEAD ACTORS

Australian Public Service (APS) lead policy department, in consultation with Ministerial Offices



Continue to Questions

4

Step Four

Advice to Government



QUESTIONS



OUTPUTS

- ☐ What Intra- and Inter-Departmental Committees need to approve the recommended option? Have approvals been given?
- ☐ Is budget approval required? If so, what cycle applies? Has budget been secured?
- ☐ How will the chosen option be implemented and evaluated?
- ☐ Does the decision require new legislation or regulatory instruments to implement?
☐ Does existing legislation already provide authority? Would other policy mechanisms suffice (grants process, codes, rules, guidelines)?
- ☐ How will the recommendation be communicated to stakeholders? Have stakeholders been advised as transparently as possible about the chosen option and the rationale behind the decision?
- ☐ Does any information gathered in Steps One - Four need to be protected (national security or commercial confidentiality)? The default should be disclosure. Have the reasons for non-disclosure been explained as transparently as practicable?

Can you answer each Question?



If no, return and revisit Step Three

If yes, does the recommended option require Intra- or Inter-Departmental Approval?



If yes, proceed to Intra- or Inter-Departmental Approval

If no, does the recommended option require new monies?



If yes, proceed to Budget Process



If no, proceed to Step Four, Outputs



Continue to Outputs

4

Step Four

Advice to Government



QUESTIONS



OUTPUTS

☐ Obtain all necessary Intra- or Inter-Departmental Approval Approvals for the recommended option

☐ Secure Budget Approval for the recommended option

☐ Draft Advice to Government (for example, a Cabinet Paper that sets out the desired outcome is X, the problem or opportunity we are solving for is Y, government intervention is required because Z, the options we considered were A, B, C, the best option is D because [insert Option and Impact Analysis], it will cost E [absorb/new monies] and is supported/not supported by [Insert departmental and stakeholders views])

☐ Update stakeholders on advice to Government

Can you prepare each Output?



If no, return and revisit Step 4, Questions



If yes, proceed to Step 5



Continue to Step Five

Step Five - Decision Government Chooses Tool

5

Step Five

Decision Government Chooses Tool



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LEAD ACTORS

Minister/Cabinet

Australian Public Service (APS) lead policy department may change after Step Five



Continue to Questions

Step Five - Decision Government Chooses Tool

5

Step Five

Decision Government Chooses Tool



QUESTIONS



OUTPUTS



Who has the authority to approve the recommended option? Does the power rest with an individual Minister, several Ministers, or Cabinet? Has approval been given?

Can you answer each Question? Has approval been given?

A

If no, proceed to Ministerial or Cabinet Approval Process



If yes, proceed to Step Five, Outputs



Continue to Outputs

Step Five - Decision Government Chooses Tool

5

Step Five

Decision Government Chooses Tool



QUESTIONS



OUTPUTS

☐ Government decision

☐ Decision communicated to APS

☐ Finalise plan to implement the decision

☐ Communicate the decision to stakeholders, including an implementation plan

Has each Output been produced?



If no, return and revisit Step Five, Questions

If yes, is the agreed option not to regulate?



If yes, proceed to Exit Ramp

If no, does the agreed option require a legislative process?



If yes, proceed to Step Six



If no, proceed to the Non-Legislative Implementation Process



Continue to Step Six

6 Step Six Draft the Legislation

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LEAD ACTORS

Consultation and drafting instructions: Australian Public Service (APS) lead policy department, in consultation with Minister's office

Legislative drafting: Office of Parliamentary Counsel (OPC)



Continue to Questions

6 Step Six Draft the Legislation

QUESTIONS

OUTPUTS

- ☐ Has the policy owner changed? Is the policy owner also the solution owner?
- ☐ What is the case for action? What protections, safeguards, and reviews need to be built in?
- ☐ Do drafters need technology-specific expertise to support drafting? If so, who is best placed to provide this independently?

Can you answer each Question?

Has the relevant Executive Approval been given for drafting?

- ☐ If no, return and revisit Step Five
- ☐ If yes, proceed to Step Six, Output



Continue to Outputs

6 Step Six Draft the Legislation

QUESTIONS

OUTPUTS

☐ Prepare Instructions to drafters (APS)

☐ Prepare Exposure Draft (OPC)

Has each Output been produced?

If no, return to Step Six, Questions

If yes, proceed to Ministerial or Executive Approval


Continue to Step Seven

Step Seven - Consultation on Draft

7 Step Seven Consultation on Draft

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Legislative drafting: Office of Parliamentary Counsel (OPC)



Continue to Questions

Step Seven - Consultation on Draft

7 Step Seven Consultation on Draft

QUESTIONS

OUTPUTS

- ☐ Has a consultation communication plan been developed (to illicit input from a broad range of stakeholders, not just those involved in previous steps)?
- ☐ Do consultation time frames allow for stakeholders to provide considered input?
☐ Are there particular reasons for urgency justifying shorter consultation time? If so, has this rationale been communicated clearly to stakeholders?
- ☐ Are there other adjacent submissions/consultations scheduled within this time frame? How will this impact stakeholder capacity to provide considered input?
☐ Does the imperative of the outcome justify this impost? If so, has the imperative been explained to stakeholders?
- ☐ Will there be opportunities for formal and informal stakeholder engagement during this period, to facilitate targeted, comprehensive, and considered written submissions?

Can you answer each Question?

- ☐ If no, resolve internally before proceeding
- ☒ If yes, proceed to Step Seven, Outputs



Continue to Outputs

Step Seven - Consultation on Draft

7 Step Seven Consultation on Draft

QUESTIONS

OUTPUTS

- ☐ Prepare a Consultation Communication Plan
- ☐ Draft Call for Written Submissions
- ☐ Conduct informal and formal stakeholder consultations
- ☐ Publish stakeholders' written submission

Have you prepared each Output?

- ☐ If no, resolve internally before proceeding
- ☒ If yes, proceed to Step Eight


Continue to Step Eight

Step Eight - Revise and Finalise Draft

8 Step Eight Revise and Finalise Draft

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Legislative drafting: Office of Parliamentary Counsel (OPC)



Continue to Questions

Step Eight - Revise and Finalise Draft

8

Step Eight

Revise and Finalise Draft



QUESTIONS



OUTPUTS

☐ Has the draft been revised in light of the consultations?

☐ Has a Stakeholder Feedback Plan been developed (to provide feedback on key themes from consultations and submissions, including advice on how input provided shaped amendments to the draft, and rationale for why the input was/was not incorporated)?

Can you answer each Question?



If no, resolve internally before proceeding

If yes, did new information emerge during the consultations that necessitates revisiting Steps Two, Three, and Five?



If yes, return and revisit Step Two

or



Return and revisit Step Three

or



Return and revisit Step Four

or



Return and revisit Step Five



If no, proceed to Step Eight, Output



Continue to Outputs

Step Eight - Revise and Finalise Draft

8

Step Eight

Revise and Finalise Draft



QUESTIONS



OUTPUTS

☐ Stakeholder Feedback

☐ Bill and Explanatory Memorandum

Have you prepared each Output?



If no, return to Step Eight, Questions



If yes, proceed to Ministerial or Executive Approval



Continue to Step Nine

Step Nine - Bill Introduced to Parliament

9

Step Nine

Bill Introduced to Parliament



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LEAD ACTORS

Minister, Cabinet, or Parliament, in consultation with Australian Public Service (APS) lead policy department and Office of Parliamentary Counsel (OPC)



Continue to Questions

Step Nine - Bill Introduced to Parliament

9 Step Nine Bill Introduced to Parliament

QUESTIONS

[Click here for an overview of the process once a Bill is introduced to Parliament.](#)

Does the Bill have sufficient support to pass Parliament?

If yes, proceed to Step Ten

If no, proceed to

B Parliamentary Amendments

or

C Parliamentary Committees



Continue to Step Nine

Step Ten - Bill Approved by Parliament

10 Step Ten Bill Approved by Parliament

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Minister, Cabinet, or Parliament, in consultation with Australian Public Service (APS) lead policy department and Office of Parliamentary Counsel (OPC)


Continue to Outputs

10 Step Ten Bill Approved by Parliament

OUTPUT

☐ Act of Parliament

Has the Output been produced?

 If no, return to Step Nine

or

A Proceed to Exit Ramp

B If yes, congratulations proceed to Step Eleven



Continue to Step Nine

Step Eleven - Implementation, Evaluation, and Review

11 Step Eleven Implementation, Evaluation, and Review

PRINCIPLES

- Revision and refinement are strengths, not weaknesses
The end of the tech policy design process is just the beginning; implementation, evaluation, and review are vital next steps.
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LEAD ACTORS

Australian Public Service (APS) Implementation Lead

Implementation lead may be different to lead policy department



Continue to Questions

Step Eleven - Implementation, Evaluation, and Review

11

Step Eleven

Implementation, Evaluation, and Review



QUESTIONS



OUTPUTS

- ☐ What structures need to be established to implement the approved proposal?
This could include, but is not limited to, codes, rules, guidelines, subordinate legislation, or grants program.
- ☐ How can stakeholders be leveraged in support of this?
- ☐ What processes can be incorporated into implementation to encourage openness and transparency in implementation and evaluation?
- ☐ How will progress toward the outcome be measured? What information and systems do you need to put in place now to support this?
- ☐ Where/how will baseline metrics be gathered (to measure impact and change over time)?

Can you answer each Question?



If no, resolve internally before proceeding



If yes, proceed to Step Eleven, Outputs



Continue to Outputs

Step Eleven - Implementation, Evaluation, and Review

11 Step Eleven Implementation, Evaluation, and Review

QUESTIONS

OUTPUTS

☐ Implementation Plan

☐ Review Plan (see for example: Post Implementation Review Guidance Note).

☐ Baseline Measurements

Have you prepared each Output?



If no, resolve internally before proceeding



If yes, congratulations, this Tech Policy Design Process has concluded.
Proceed to activate your Implementation and Review plans

But remember:

Principle 8 – Revision and refinement are strengths, not weaknesses. The end of the tech policy design process is just the beginning: implementation, evaluation, and review are vital next steps.

Principle 1 – Designing tech policy is a journey, not a destination. Just like technology, good tech policy is agile and constantly evolving.