

Reference: 20230566

29 January 2024

Andrew Riddell  
fyi-request-25099-24f77d12@requests.fyi.org.nz

Dear Andrew

Thank you for your Official Information Act request, received on 9 December 2023. You requested the following:

*...all advice and communications and assessments by The Treasury, including advice and communications and assessments to cabinet and/or ministers, relating to this decision to not prepare regulatory impact analyses and list all the proposed legislation that this applies to.*

Please find enclosed the following documents:

Item	Date	Document Description	Decision
1.	29 November 2023	T2023/1898 – 100 Day Action Plan regulatory commitments: Cabinet’s impact analysis requirements and New Zealand’s international good regulatory practice obligations	Release in part
2.	30 November 2023	RE: 100 Day Plan and RIA requirements	Release in full (except for personal details)
3.	8 December 2023	Attachment to Item 2: Guidance to departments on the application of Regulatory Impact Analysis requirements to 100 Day Plan priorities	Release in full

I have decided to release the documents listed above, subject to information being withheld under one or more of the following sections of the OIA, as applicable:

- section 6(a) – to prevent prejudicing the security or defence of New Zealand or the international relations of the Government of New Zealand,
- section 9(2)(a) – to protect the privacy of natural persons, including that of deceased natural persons,
- section 9(2)(g)(ii) – to maintain the effective conduct of public affairs through the protection of such Ministers, members of organisations, officers, and employees from improper pressure or harassment, and
- section 9(2)(k) – to prevent the disclosure of information for improper gain or improper advantage.

Direct dial phone numbers of officials have been redacted under section 9(2)(k) in order to reduce the possibility of staff being exposed to phishing, social engineering and other scams. This is because information released under the OIA may end up in the public domain, for example, on websites including Treasury's website.

Some information has been redacted because it is not covered by the scope of your request. This is because the documents include matters outside your specific request.

You requested a list of all legislation that Cabinet's decision to not require regulatory impact analysis applies to. The amended regulatory impact analysis requirements apply to all proposals in the 100-Day Plan which involve changes to primary or secondary legislation, but whether or not impact analysis is required depends on whether the proposal solely involves the repeal of legislation. The following table provides a list of the 100-Day Action Plan proposals which have been processed by the Treasury's Regulatory Impact Analysis team. Some items have been withheld under section 9(2)(f)(iv) of the OIA, to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials.

Item
Repeal of the Fair Pay Agreements Legislation
Repeal of Water Services Entities Act 2022
Ending the Clean Car Discount Scheme
Policy Approvals for Regulating the Banning of Cell Phones in Schools
Mandating teaching times for maths, reading and writing
Removing the "Dual Mandate" from the Reserve Bank of New Zealand Act 2021
Disestablishing the Productivity Commission
Extending the Availability of 90-day Trials to All Employers
Stop Blanket Speed Limit Reductions and Start Work on a New Rule

A summary of the 100-Day Plan is available online at the following address: <https://www.beehive.govt.nz/release/coalition-government-unveils-100-day-plan>. A comprehensive list of the proposals with more details is available in the 100-Day Plan Cabinet paper, which will soon be proactively released on DPMC's website at the following address: <https://www.dPMC.govt.nz/publications>

In making my decision, I have considered the public interest considerations in section 9(1) of the Official Information Act.

Please note that this letter (with your personal details removed) and enclosed documents may be published on the Treasury website.

This reply addresses the information you requested. You have the right to ask the Ombudsman to investigate and review my decision.

Yours sincerely

John Marney  
**Manager**  
**Regions, Enterprises and Economic Development**

# 20230566

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**Treasury Report:** 100 Day Action Plan regulatory commitments: Cabinet's impact analysis requirements and New Zealand's international good regulatory practice obligations

<b>Date:</b>	29 November 2023	<b>Report No:</b>	T2023/1898
		<b>File Number:</b>	SH-11-2-7-1

**Action sought**

	Action sought	Deadline
Hon David Seymour <b>Minister for Regulation</b>	<b>Note</b> our recommended approach to the impact analysis requirements for 100 Day Action Plan proposals, which we understand is reflected in the Prime Minister's 100 Day Action plan Cabinet paper.  Out of scope	29 November 2023
Hon Nicola Willis <b>Minister of Finance</b>	<b>Note</b> the contents of this briefing.	N/A

**Contact for telephone discussion (if required)**

Name	Position	Telephone	1 <sup>st</sup> Contact
Floris de Meijer	Analyst, Regulatory Strategy	s 9(2)(k) & s 9(2)(g)(ii)	
Harry Chapman	Senior Analyst, Regulatory Strategy		
Pip van der Scheer	Manager, Regulatory Strategy		✓

**Minister's Office actions (if required)**

**Return** the signed report to Treasury.

Note any feedback on the quality of the report

**Enclosure:** N/A

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**Treasury Report: 100 Day Action Plan regulatory commitments:  
Cabinet's impact analysis requirements and New Zealand's international  
good regulatory practice obligations**

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**Executive Summary**

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The Government has indicated an intention to progress a range of policy proposals in its first 100 days. The time constraints in this context have implications for the way in which we meet our international obligations and operationalise the regulatory impact analysis (RIA) requirements.


The Government has indicated a focus on good regulatory quality and minimising the impact of regulation on businesses and individuals. The Regulatory Management System, of which RIA is a part, plays an important role in helping the Government to achieve this goal. RIA is a key tool for supporting evidence-based policy development, supporting transparency and accountability of regulatory decisions and the provision of free and frank advice. The requirements set in the 100 Day Action Plan period provide an opportunity to set expectations of good regulatory practice for Ministers and agencies for the rest of the term.

**The application of impact analysis requirements to 100 Day Action Plan proposals**

The context of the 100 Day Action Plan can make completing comprehensive regulatory impact analysis impractical. There is no standing exemption for urgent proposals in the 100 Day Action Plan. We do not recommend completely suspending the requirements so agencies can provide Ministers with the best advice possible and continue to meet New Zealand's international obligations. However, we recommend suspending the requirement for formal quality assurance of Regulatory Impact Statements for 100 Day Action Plan proposals and requiring post-implementation reviews for all proposals one year after the relevant legislation is enacted (unless waived by the Treasury).

This approach enables a streamlining of the requirements to enable the delivery of 100 Day Action Plan proposals, while ensuring we continue to meet New Zealand's international obligations and assess regulatory quality in these areas. We understand this approach to impact analysis is reflected in the Prime Minister's 100 Day Action Plan Cabinet paper.

Out of scope



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**Recommended Action**

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We recommend that you:

- a **note** that the context of the 100 Day Action Plan can make completing comprehensive regulatory impact analysis impractical

*Noted*

Minister for Regulation

- b **note** officials intend to issue guidance indicating where agencies should focus their efforts in relation to impact analysis if they are subject to time constraints

*Noted*

Minister for Regulation

- c **note** that the Prime Minister has overall responsibility for Cabinet processes and circulars, including Cabinet's impact analysis requirements

*Noted*

Minister for Regulation


- d **note** we understand the following approach to the impact analysis requirements has been incorporated into the Prime Minister's 100 Day Action Plan Cabinet paper:

- a. suspending the requirement for quality assurance of Regulatory Impact Statements
- b. requiring post-implementation reviews be undertaken 12 months after the legislation is enacted, unless this requirement is waived by the Treasury

*Noted*


Minister for Regulation

Out of scope



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Out of scope



Caralee McLiesh  
**Secretary to the Treasury**

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Hon David Seymour  
**Minister for Regulation**

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Hon Nicola Willis  
**Minister of Finance**

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**Treasury Report:** 100 Day Action Plan regulatory commitments:  
Cabinet's impact analysis requirements and New Zealand's international good regulatory practice obligations

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**Purpose of Report**

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1. This report provides advice on the process for 100 Day Action Plan regulatory commitments. New Zealand has international good regulatory practice (GRP) obligations which apply to these commitments, including requirements to consult and prepare regulatory impact analysis (RIA).
2. This report outlines our recommended approach for how agencies should approach RIA for 100 Day Action Plan proposals and explains our underlying reasoning. We understand this approach has been reflected in the Prime Minister's 100 Day Action Plan Cabinet paper.

**The 100 Day Action Plan and regulatory impact analysis**

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3. The Government has indicated a focus on good regulatory quality and minimising the impact of regulation on businesses and individuals. The Regulatory Management System (RMS), of which RIA is a part, plays an important role in helping the Government to achieve this goal. As set out below, impact analysis can help to ensure Ministers have full information on the costs and benefits of proposals under consideration, as well as implementation considerations and risks. Analysis at the beginning of the process can minimise the risk of unintended consequences and maximise the chance of policies being successfully implemented and ultimately achieving their objectives. The requirements set in the 100 Day Action Plan period provide an opportunity to set expectations of good regulatory practice for the rest of the term.

**Background on impact analysis**

4. Cabinet's impact analysis requirements are set out in Cabinet Office circular CO (20) 2. The requirements apply to any government regulatory proposal taken to Cabinet for approval. A "government regulatory proposal" is a proposal that will ultimately require creating, amending, or repealing primary or secondary legislation.
5. RIA is a key tool for supporting evidence-based policy development, supporting transparency and accountability of regulatory decisions and the provision of free and frank advice. Impact analysis provides insight into the implications of a proposal, including any risks or unintended consequences.
6. The key product of the requirements is a Regulatory Impact Statement (RIS). Under the status quo, any government regulatory proposals would need to be supported by a RIS unless an exemption is applicable. The RIS is a government agency document that summarises an agency's best impact analysis relating to a regulatory proposal.
7. The impact analysis framework involves defining the policy or operational problem, identifying the policy objectives, and the full range of feasible options for addressing that problem. RISs also provide the basis for consultation with stakeholders, and effective consultation must be undertaken when carrying out impact analysis. Through



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routine publication of RISs, the impact analysis requirements also contribute to transparency and accountability.

8. The following table sets out various aspects of the usual impact analysis process:

<b>Impact analysis</b>	<p>A Regulatory Impact Statement (RIS) is developed to be attached to the Cabinet paper. The RIS usually includes:</p> <ul style="list-style-type: none"> <li>• a problem definition,</li> <li>• objectives and criteria,</li> <li>• analysis of a range of feasible options,</li> <li>• cost-benefit analysis on the preferred option,</li> <li>• stakeholder views, and</li> <li>• implementation considerations and a plan to undertake monitoring, evaluation and review.</li> </ul>
<b>Quality assurance of impact analysis</b>	<p>All impact analysis must undergo independent quality assurance (QA) before being attached to the Cabinet paper. Most QA is undertaken by agencies, but the Treasury assures the quality of RISs for significant proposals.</p> <p>The QA panel provides the RIS with a rating of 'meets', 'partially meets', or 'does not meet'. The QA panel inserts a formal QA statement into the Cabinet paper setting out the rating and providing information on the quality of the analysis and any limitations or concerns.</p>
<b>Publication</b>	<p>RISs (subject to any redactions) must be published on the websites of the administering agency and the Treasury, generally within 30 days of Cabinet making a decision.</p>
<b>Implications if requirements are not met</b>	<p>If no RIS is provided, or it 'does not meet' the QA standard, the RIA requirements are not met and the Treasury assesses these situations on a case-by-case basis. In some circumstances, we may determine that a Supplementary Analysis Report could be provided at the next major policy decision at a Cabinet Committee meeting. Alternatively, a post-implementation review may be required if there is no time to provide impact analysis before the legislation is approved by Cabinet.</p>

9. There are exemptions available from the RIA process under the Cabinet circular. For example, exemptions for proposals that have minor impacts on individuals, not for profits and businesses, or for proposals responding to emergency situations. However, the urgency of a policy proposal is not in itself sufficient grounds for an exemption.

**International obligations and impact analysis**

10. The promotion of RIA has been a key feature of OECD and APEC recommendations on good regulatory practice for many years. New Zealand has also accepted a range of good regulatory practice obligations through international trade agreements. To a large extent our current impact analysis requirements, processes and mechanisms meet our current and impending international obligations. International obligations relating to impact analysis will also apply to some regulatory actions covered by the 100 Day Action Plan.
11. Under the Free Trade Agreement between New Zealand and the United Kingdom (the NZ–UK FTA) New Zealand must “endeavour to carry out proportionate impact

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assessments of proposed major regulatory measures” and must publish the findings of those assessments in a timely manner.<sup>1</sup>

12. In addition, under the NZ–UK FTA, New Zealand “shall” maintain processes and mechanisms for impact assessment that consider:
- the need for a regulatory measure, including the nature and significance of the issue the measure is intended to address; and
  - any feasible and appropriate regulatory and non-regulatory options that would achieve the relevant policy objectives.

13. [REDACTED] s 6(a) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] We discuss the Government’s options for setting expectations for impact analysis on 100 Day actions further below.

**The previous Government streamlined the impact analysis requirements for its 100 Day Action Plan commitments**

14. In 2017, the incoming Government put in place streamlined impact analysis requirements to support the implementation of its 100 Day Action Plan. This meant that:
- Where time constraints precluded full analysis, agencies were able to note key limitations or constraints, and then focus on implementation and operation, and monitoring, evaluation and review.
  - QA was required, but QA panels were not required to assign a formal quality rating.
  - In situations where RIA was required but not provided, the requirement for Supplementary Analysis was generally triggered.
15. This streamlined approach to impact analysis was subject to criticism by some civil society stakeholders, and in the media, on the basis that it did not require agencies to prepare comprehensive impact analysis. Some stakeholders suggested that post-implementation review should be mandatory for 100 Day Action Plan commitments.

**The Government has options about the application of the impact analysis requirements to 100 Day priorities**

16. The Government has choices about how the RIA requirements will apply to regulatory proposals that relate to priorities in the 100 Day Action Plan.
17. We do not think that the requirement for impact analysis should be completely waived for 100 Day priorities for a number of reasons. First, RIA is an important instrument to

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<sup>1</sup> We have focussed on the UK FTA as it has the strongest obligations which are currently in force. The CPTPP also contains relatively flexible obligations to “generally encourage” impact analysis to be conducted by regulatory agencies, and while recognising each party’s specific circumstances and approach, sets out that impact analysis should fulfil certain requirements. The EU–NZ FTA (not yet in force) “affirms the intention” of NZ’s regulatory authority to carry out impact assessment in line with its respective rules and procedures, and notes each regulatory authority should promote the identification and consideration of certain requirements.

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support quality advice to Ministers on the risks and unintended consequences of a regulatory proposal. If Ministers are presented with comprehensive analysis now it makes it less likely that unanticipated implementation issues prevent proposals from meeting their objectives. Secondly, there is a public expectation that impact analysis is undertaken and proactively released. Finally, New Zealand has international obligations in relation to the provision of impact analysis.

18. We also do not consider that maintaining the status quo requirements is feasible for many proposals with constrained timeframes. The status quo would likely lead to the preparation of low quality RISs – or the complete absence of RISs – and the likely failure to meet RIA requirements. However, the status quo would be most consistent with our international obligations.

***We have developed an approach to streamline the requirements for your consideration***

19. Our recommended approach is summarised in the table below and in the following sections.

<b>Element of the process</b>	<b>Alternative approach suggested</b>
<b>Impact analysis</b>	No formal reduction in scope, but the Treasury to publish guidance which sets out which areas of impact analysis to focus on (e.g. costs and benefits of proposal, implementation considerations/risks)
<b>Quality assurance of impact analysis</b>	Requirement for QA suspended, but peer review encouraged
<b>Publication</b>	No change – proactive release required for all RISs
<b>Post-implementation review</b>	Post-implementation review required for all proposals, unless a waiver is received from the Treasury

20. We consider the normal requirements should apply to proposals which are not included in the 100 Day commitments, even if Cabinet decisions are taken in the first 100 days, or the proposal was included in a manifesto. The normal requirements would resume for all proposals at the end of the 100 Day period.

***We recommend maintaining the requirement for comprehensive impact analysis, but we intend to provide guidance on where agencies should focus their analysis (if needed)***

21. We do not propose to formally reduce the scope of required impact analysis, and as such we are not seeking decisions from you in this area. However, we do plan to provide some guidance for agencies working on 100 Day Action Plan priorities as to which areas of the RIS are likely to be most useful in the context of the first 100 days.
22. We intend for this guidance to set out that agencies should endeavour to do as much analysis as possible, while recognising that the context means it could be difficult to do meaningful analysis on problem definition and presenting alternative options. We would recommend prioritising analysis on the impacts of the Government's preferred option, implementation considerations and any choices in relation to that.
23. For proposals with less severe time constraints, more fulsome impact analysis would still inform decision making, providing Ministers with insight into the range of feasible options and unintended consequences of proposals.

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24. A full problem definition would be preferred. Where time constraints do not allow for a complete problem definition, agencies could use the regulatory proposal as set out in the 100 Day Action Plan priority as the starting point for analysis.
25. In some situations, it may be relevant to refer to previous impact analysis to advise Cabinet, to streamline the preparation of impact analysis further.<sup>2</sup>
26. We consider this approach would be consistent with New Zealand's obligations for impact analysis to be produced.

### ***We recommend removing the mandatory requirement for quality assurance of RISs***

27. In recognition of time pressures and limited departmental resources being available, we recommend QA of RISs for 100 Day Action Plan priorities be strongly encouraged but not mandatory. Where formal QA is not undertaken
  - agencies should at a minimum get the RIS peer reviewed within the agency (but no formal rating would be required), and
  - the authors of the RIS would insert a brief statement into the QA section of the RIS, and the 'impact analysis' section of the Cabinet paper, noting that the RIS has not been quality assured and setting out the self-identified limitations of the impact analysis.
28. By not requiring QA, Ministers would not have an independent view on the quality of the analysis and would instead need to rely on the self-described limitations. However, it would allow agencies to devote more time to preparing the analysis in the first place.
29. Our international obligations do not require that QA is undertaken, so we have more freedom to temporarily amend this part of the system.
30. On balance, we consider this approach is most likely to enable the timely delivery of policy proposals, while still providing some insight into the quality of the analysis produced. (We have included additional analysis on other options in appendix one.)

### ***We recommend requiring post-implementation reviews of 100 Day Action Plan proposals***

31. Post-implementation review is often required when impact analysis has not been completed prior to Cabinet approval, or it was completed to an unsatisfactory standard, and then the regulatory change has been implemented. Conducting a post-implementation review can provide a useful safeguard to ensure that the change is meeting its objectives and can identify potential improvements.
32. We recommend all regulatory proposals should be subject to a post-implementation review one year after the legislation is enacted unless the Treasury's RIA team waives the requirement. Where the relevant agency considered post-implementation review would not be useful (e.g. because the change involves reverting to the previous status quo), they could seek a waiver from the Treasury's RIA Team, who would consider factors such as the significance of the proposal, risks, etc. (We have included additional analysis on other options in appendix one.)
33. Post-implementation reviews are relatively recent innovations in the RIA system, agency capability to conduct evaluations is limited, and there can be challenges

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<sup>2</sup> For example, where the 100 Day Plan priority repeals a piece of legislation, the impact analysis section could refer to the published previous RIS completed. Agencies can then focus new impact analysis on current implementation and transitional issues. When Cabinet is agreeing to both repeal legislation and agree on a replacement that is not just a reversion to the previous status quo, new analysis would be required in relation to the replacement proposal.

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ensuring agencies produce any post-implementation reviews. We can provide further advice on how to improve compliance with any post-implementation review requirement.


***Our recommended approach will play out in different ways depending on the nature of the 100 day commitment***

<b>Type of 100 Day Action Plan commitment</b>	<b>Impact analysis required</b>	<b>Post-implementation analysis required</b>
<p><b>Repeal regulation</b> (e.g. repeal of Fair Pay Agreements Act)</p>	<p>A full RIS would generally be required but the requirement for QA would be waived.</p> <p>However, agencies could refer to past impact analysis or request an exemption for the requirement to provide a full RIS, based on duplication with previous analysis.</p>	<p>A post-implementation review would be required unless waived by the Treasury.</p> <p>A waiver is possible where the proposal involves reverting back to the previous status quo.</p>
<p><b>Repeal regulation and agree on a change of direction</b> (e.g. repeal of Three Waters legislation)</p>	<p>Agencies could refer to past impact analysis and request a partial exemption for the requirement to provide a full RIS. However, the proposals relating to the future direction would be subject to impact analysis (although QA would not be required).</p>	<p>A post-implementation review would be required unless waived by the Treasury.</p>
<p><b>New proposals</b> (e.g. amend the Overseas Investment Act to make it easier for Build-to-Rent housing to be developed)</p>	<p>A full RIS would be required but the requirement for QA would be waived.</p>	<p>A post-implementation review would be required unless waived by the Treasury.</p>

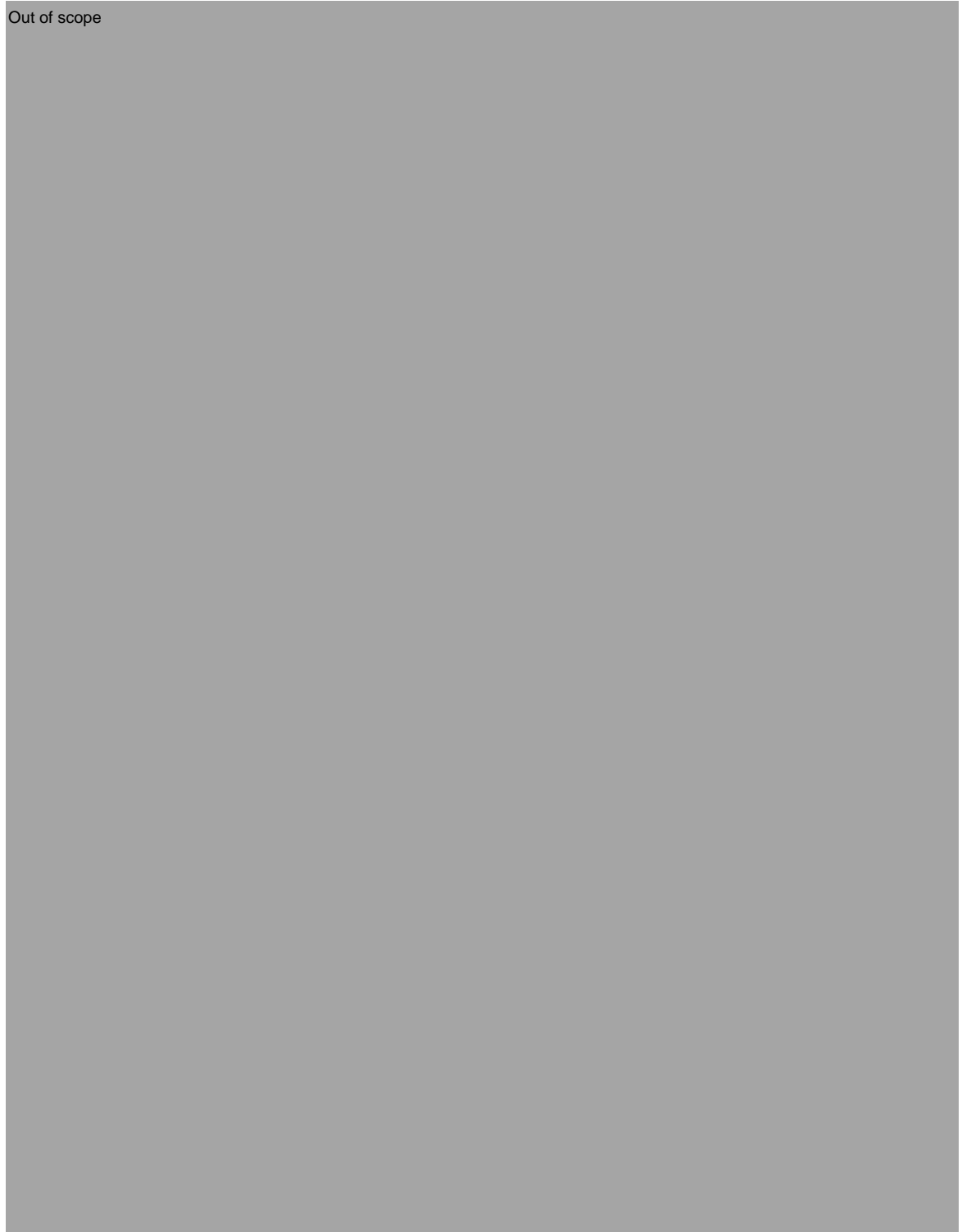
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### Next Steps

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49. It has been past practice to include the revised impact analysis requirements in the Government's 100 Day Action Plan Cabinet paper. We have worked with the Department of the Prime Minister and Cabinet on the 100 Day Action Plan Cabinet paper, and we understand our recommended approach to impact analysis is reflected in the paper.
50. Once Cabinet has made decisions on the 100 Day Action Plan, the Treasury would then publish guidance and communicate the requirements to relevant agencies.

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**Appendix One: Alternative options for applying the impact analysis requirements to 100 Day Action Plan proposals**

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**We have balanced competing objectives in our analysis**

1. In developing our recommended approach, we have sought to balance the aims of:
  - Providing Ministers with free and frank analysis to assist them to achieve their goals. For example, in the 100 Days context, impact analysis can play an important role in identifying implementation risks and mitigations.
  - Putting in place feasible requirements for agencies, including recognising the impact of the time constraints on agencies' ability to undertake full impact analysis.
  - Meeting New Zealand's international good regulatory practice obligations.
  - Maintaining transparency and accountability for Government decision making.

**There are choices about the degree to which QA is required**

2. There are options around the degree to which quality assurance (QA) is required in relation to 100 Day Action Plan proposals. While QA is a fundamental part of our normal impact analysis requirements, our international obligations do not require that QA is undertaken, so we have more freedom to amend the QA requirements than amend other parts of the system.

	<b>Summary of Quality Assurance requirement</b>
<b>Option 1</b>	No formal QA requirement. Peer review is encouraged, and authors to self-assess RIS and provide own statement on limitations.
<b>Option 2</b>	Formal QA through QA panel. QA panel does not provide rating but QA statement only.
<b>Option 3</b>	Formal QA through QA panel. QA panel to provide rating and QA statement.

3. In recognition of time pressures and limited departmental resources being available, we recommend QA of RISs for 100 Day Action Plan priorities would be strongly encouraged but not mandatory (option 1). Where formal QA is not undertaken:
  - agencies should at a minimum get the RIS peer reviewed within the agency (but no formal rating would be required), and
  - the authors of the RIS would insert a brief statement into the QA section of the RIS, and the 'impact analysis' section of the Cabinet paper, noting that the RIS has not been quality assured and setting out the self-identified limitations of the impact analysis.
4. By not requiring QA, Ministers would not have an independent view on the quality of the analysis and would instead need to rely on the self-described limitations. However, it would allow agencies to devote more time to preparing the analysis in the first place. On balance, we consider this option is most likely to enable the timely delivery of policy proposals, while still providing some insight into the quality of the analysis produced.



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5. We do not recommend the other options:
- **Option 2** would provide Ministers with a better overview of the quality of the analysis, but it would be significantly more time consuming than option 1.
  - **Option 3 (the status quo)** would provide the most robust quality assurance of impact analysis produced, but it would be time consuming and may be an impediment to the delivery of priority proposals.

### **Choices about whether 100 Day Action Plan proposals require post-implementation review**

6. We recommend all regulatory proposals should be subject to a post-implementation review one year after the legislation is enacted unless the Treasury waives the requirement. Where the relevant agency considered post-implementation review would not be useful (e.g. because the change involves reverting to the previous status quo), they could seek a waiver from the Treasury, who would consider factors such as the significance of the proposal, risks, etc.
7. We considered an alternative approach where the Treasury would consider on a case-by-case basis whether to require post-implementation review, which would result in a reduced volume of reviews. However, we ultimately concluded all proposals should be subject to post-implementation review unless this requirement is explicitly waived. This additional requirement for evaluation reflects the fact that the requirement for QA is being dropped – so the quality of the impact analysis which is produced is likely to be lower – but also that the 100 Day Action Plan process condenses the usual policy process and may increase the chance of mistakes or unanticipated effects.

**From:** [RIA Team \[TSY\]](#)  
**To:** s 9(2)(a) (WELLHO); s 9(2)(a); ^CUSTOMS: s 9(2)(a); ^Customs: s 9(2)(a) @dia.govt.nz; s 9(2)(a) @doc.govt.nz; s 9(2)(a) RIAP; regs@eeca.govt.nz; s 9(2)(a) @linz.govt.nz; s @linz.govt.nz; RIARP; ^MBIE: s 9(2)(a) ^MBIE: s 9(2)(a) s 9(2)(a) @mbie.govt.nz; s 9(2)(a) @mfat.govt.nz; s 9(2)(a) @mfe.govt.nz; s 9(2)(a); riap; ^Education: s 9(2)(a); RIA Cord MOT; s 9(2)(a) Regulatory.ImpactStatements@mpi.govt.nz; s 9(2)(a) @mpi.govt.nz; s 9(2)(a) @mpi.govt.nz; s 9(2)(a) @foodstandards.gov.au; ^MSD: s 9(2)(a) s 9(2)(a) Ashley Tomlinson  
**Cc:** [Erin&Pip \[TSY\]](#); [Floris de Meijer \[TSY\]](#); [Jonathan Ayto \[TSY\]](#); [Liam Taylor \[TSY\]](#); [Linda Cameron \[TSY\]](#); [Marika England \[TSY\]](#); [Serena Coxhead \[TSY\]](#)  
**Subject:** RE: 100 Day Plan and RIA requirements  
**Date:** Friday, 8 December 2023 1:46:00 pm  
**Attachments:** [image001.png](#)  
[Guidance to departments on the application of Regulatory Impact Analysis requirements to 100 Day Plan priorities.docx](#)

Kia ora koutou

Thank you for your engagement with us on the RIA requirements and the 100 Day Plan proposals. We appreciate your patience and goodwill in what has been an uncertain and hectic time!

We have now produced some guidance to support Cabinet's decisions on the RIA requirements and 100 Day Plan proposals. I apologise for the delay in sending this out – we had a large number of urgent queries and then I was unwell.

We hope this guidance is helpful for any remaining 100 Day Plan processes, and please let us know if you have any questions.

Hei konā mai  
Harry

**Harry Chapman (he/him) | Kaitātari Matua Kaupapahere – Senior Analyst, Regulatory Strategy Team | Te Tai Ōhanga – The Treasury**

s 9(2)(k) | Email: [harry.chapman@treasury.govt.nz](mailto:harry.chapman@treasury.govt.nz)

*Note: I don't work Mondays*

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**From:** Harry Chapman [TSY]

**Sent:** Thursday, 30 November 2023 10:17 am

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**Subject:** 100 Day Plan and RIA requirements

**Importance:** High

[IN-CONFIDENCE]

Kia ora koutou

Cabinet yesterday made decisions on how the RIA requirements will apply to 100 Day Plan proposals.

**If your agency has a Cabinet paper getting lodged imminently for consideration by Cabinet on Monday please get in touch with us ASAP and we can provide new wording for the impact analysis section (if it is not too late already).**

- For proposals involving the repeal of legislation (and not seeking approval for new policy), no RIS is required
- For new proposals:
  - RISs will be required, but formal quality assurance is not needed (at the very least we recommend peer review of RISs, and for the authors to note any limitations and constraints).
  - If agencies do not have time to prepare comprehensive impact analysis, they can focus on cost benefit analysis and implementation issues.
  - Post-implementation assessments will be required, one year after enactment of the relevant legislation.

In some cases, your agencies will have already started preparing RISs for repeal proposals. Sorry we haven't been able to provide clarity before this point on whether or not those RISs were required. If you have a completed RIS ready to go we recommend they're still submitted that to Cabinet, but as the preparation of RISs in that situation is not required we'll leave the ultimate decision on whether to submit it to Cabinet up to you and your Minister.

We will be urgently revising our 100 Day Plan guidance and providing that as soon as possible.

Please get in touch if you have any questions.

Hei konā mai  
Harry



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*Note: I don't work Mondays*

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## **Guidance to departments on the application of Regulatory Impact Analysis requirements for 100 Day Plan proposals in the first 100 days**

*The Treasury's Regulatory Impact Analysis Team, 8 December 2023*

1. The pace at which advice on regulatory proposals related to priorities in the 100 Day Plan will need to be developed makes it difficult to fully comply with the regulatory impact analysis (RIA) requirements in some cases.
2. Cabinet has agreed to amend the RIA requirements for 100 Day Plan proposals [CAB-23-MIN-0468]:
  - a. for proposals which solely repeal legislation, the need for a RISs has been suspended.
  - b. for new proposals, RISs are required but formal quality assurance is not needed. A post-implementation review is also required for these proposals.
3. To support Cabinet's decisions, the Treasury's RIA Team has developed this guidance on how to undertake RIA to maximise the quality of advice delivered to Ministers under very constrained timeframes.
4. Note that Cabinet's decisions to amend the RIA requirements for decisions on 100 Day Plan proposals only apply to *decisions taken during the first 100 days*. All other regulatory proposals taken to Cabinet in the 100 Day period are subject to the normal RIA requirements, as are decisions on 100 Day Plan proposals outside the first 100 Day period (which ends on 8 March 2024).

### **Engage early with the RIA Team**

5. For 100 Day Plan proposals, please engage early with the Treasury's RIA Team. The approach to impact analysis will depend on the nature of the proposal and the RIA team will discuss this with you. The proposal needs to be entered in [RIA Online](#) to confirm the process and template to use (the exception being if the proposal only repeals legislation, in which case you can just email the RIA Team).

### **Cabinet has suspended the need for a RIS for proposals which repeal legislation**

6. Cabinet has decided that no RIS is required for proposals "repealing legislation and not seeking approval for new policy".
7. Where your proposal is solely repealing legislation, please get in touch with the RIA Team via email and we can provide wording for the impact analysis section of the Cabinet paper.

8. There may be some areas of ambiguity where the 100 Day Plan proposal seeks to partially reverse recent reforms, or repeal legislation and at the same time agree to what replaces it. In these cases, please discuss the best approach with the RIA Team.
9. Despite Cabinet suspending the requirement for RISs for straight repeals of legislation, your agency may still wish to prepare impact analysis on a voluntary basis if you are not faced with extreme time pressures. Although we recommend impact analysis is prepared for all proposals, it is ultimately a decision for your agency and Minister whether or not this voluntary impact analysis is prepared and submitted to Cabinet.

### **The requirements for new proposals have been streamlined**

10. If your proposal does trigger the requirements<sup>1</sup> and is not eligible for a full exemption,<sup>2</sup> a Regulatory Impact Statement (RIS) will be required and you will need to seek confirmation of the approach through RIA Online.
11. Cabinet has decided that for new proposals RISs will be required, but formal quality assurance is not needed.
12. Impact analysis for 100 Day Plan proposals should be as comprehensive as possible, and should use the [standard RIS template](#) as the starting point.
13. Where constraints prevent comprehensive analysis being undertaken for 100 Day Plan proposals, agencies may wish to focus on:
  - An assessment of how the Government's proposal will meet the policy objectives, and analysis of the marginal costs and benefits of that proposal (including a cost-benefit table) [part of section 2 of the standard RIS template]
  - How the proposal will be implemented, including implementation costs and risks and their mitigation [section 3 of the standard RIS template]
14. If time constraints do not allow for a complete problem definition, agencies can use the proposed regulatory change set out in the 100 Day Plan as the starting point for the analysis, in place of a standard problem definition. Where this is done, it should be clearly flagged in the limitations and constraints section of the RIS.

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<sup>1</sup> See Cabinet circular CO (20) 2 for details of what constitutes a 'government regulatory proposal' and therefore triggers the requirements. <https://www.dPMC.govt.nz/sites/default/files/2020-06/coc20-2-impact-analysis-requirements.pdf>

<sup>2</sup> If your proposal does trigger the RIA requirements, you could consider whether it is eligible for an exemption. The normal grounds for an exemption are available for the 100 Day period. You can apply for an exemption through RIA Online.

### **Quality assurance (QA)**

15. The QA of RISs to support decisions on 100 Day Plan proposals during the first 100 Day period is strongly recommended but is not mandatory.
16. Where formal QA is not undertaken:
  - agencies should, at a minimum, get the RIS peer reviewed within the agency (but a formal rating would not be required), and
  - the authors of the RIS should insert a brief statement into the QA section of the RIS, and the 'impact analysis' section of the Cabinet paper, noting that the RIS has not been quality assured and setting out the self-identified constraints and limitations of the impact analysis. In particular, identifying where there are gaps in the evidence base and uncertainty in the assumptions, and the extent to which this could impact on the quality of the analysis. The author may also wish to comment on what further analysis could have been undertaken with more time.
17. Where formal QA is undertaken, even though it is not required, the panel may want to focus on identifying limitations with the analysis, rather than assigning a formal QA rating. The QA panel comment can then be inserted into the impact analysis section of the Cabinet paper and RIS as in the normal process.

### **Publication of RISs for new proposals**

18. All RISs must be published, subject to necessary redactions.<sup>3</sup> You can request publication through RIA Online.

### **Post implementation evaluation of new proposals**

19. All 100 Day Plan proposals involving new policy will need to undertake a post implementation review (PIR) one year after the relevant legislation is enacted, unless the Treasury's RIA team provides a waiver. The purpose of the PIR is to analyse the impacts after the proposal has been implemented, focussing on whether the proposal's objectives have been achieved. The PIR may be used to inform decisions about any refinements or adjustment required going forward.
20. The RIA Team will discuss with you whether a PIR would be useful and what it should cover. Whether or not a PIR is required does not need to be determined before the proposal and RIS are considered by Cabinet.

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<sup>3</sup> As set out in our [guidance](#), publication is required at the earliest of the following situations: any resulting Bill is introduced into the House or Supplementary Order Paper is released; any resulting regulation is gazetted; the government announces its decision not to regulate; when Ministers approve the publication of a RIA under Cabinet's proactive release requirements for Cabinet papers.

**Compliance with these requirements**

21. The RIA Team will be monitoring compliance with these requirements in relation to 100 Day Plan proposals.
22. Where a RIS is required but not provided, the Treasury will work with agencies on a case-by-case basis to determine next steps.