Ministry for Regulation
Te Manatū Waeture

Discussion Documents and the Regulatory Analysis Summary requirements

Guidance Note

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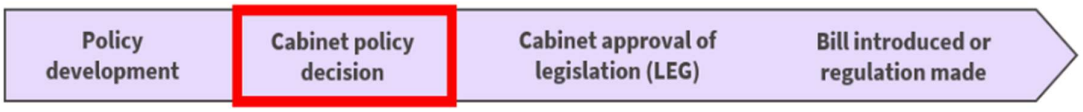
Contents

Introduction

The Ministry for Regulation has developed guidance on consultation and discussion documents to support Cabinet's regulatory policy decisions.



Consultation and engagement are important parts of the policy process. For advisors working on policy proposals, consultation informs the development of the policy and impact analysis, and advice to Ministers. Consultation plays a key role in supporting future Cabinet decisions and should be reflected in Regulatory Analysis Summaries (RASs).

While consultation and engagement can take various forms, formal public consultation is often supported by published written material, generally referred to as discussion documents (or consultation documents). There are several types of discussion documents, from early-stage issues papers through to documents that propose options for regulatory change.

Purpose

The purpose of this guidance is to support policymakers to understand how Cabinet's impact analysis requirements to support regulatory policy decisions apply to discussion documents. The guidance is structured in three parts:

- **Part A: Understanding the process for discussion documents.** This section provides an overview of the Cabinet's impact analysis requirements and explains how they apply to different types of discussion documents. It also outlines expectations around the consultation process and quality assurance criteria for the content of discussion documents.
- **Part B: Best practice consultation processes.** This section outlines the Ministry for Regulation's recommendations on best practice consultation processes for discussion documents, including the consultation period.
- **Part C: Writing effective discussion documents.** This section is for people who are preparing discussion documents; it explains what to include and how to frame consultation questions.

Notes on this version of the guidance

The Ministry for Regulation updates this guidance periodically, to reflect any changes to Cabinet's impact analysis requirements to support regulatory policy decisions. This version reflects Cabinet decisions from March 2026 to streamline the requirements for discussion documents [EXP-26-MIN-0014].

These decisions mean that discussion documents do not require an accompanying Regulatory Analysis Summary, and do not require formal quality assurance, if they present a range of feasible options. The authoring agency can choose to undertake an optional quality assurance process for the discussion document. The new process provides more flexibility for agencies to tailor the quality assurance of discussion documents to the circumstances.

Although it is no longer mandatory, we encourage agencies to apply the quality assurance criteria outlined in this guide for discussion documents. Applying the criteria supports effective consultation that will support later, higher-quality, impact analysis when final decisions are made.

Part A: Understanding the process for discussion documents

The Cabinet Office Circular on *Expectations for Good Law-Making* [CO (26) 2] does not require an accompanying Regulatory Analysis Summary (or formal quality assurance) for discussion documents if they present a range of feasible options.

When do discussion documents trigger the impact analysis requirements?

The Regulatory Analysis Summary requirements only apply to discussion documents:

- that include a narrowed scope of regulatory options, **and**
- require Cabinet[1] to approve their release for public consultation.

The requirements apply to these types of discussion documents to ensure there is sufficient analysis to support all options that Cabinet considers. (Many discussion documents are not captured by the requirements, and a number of these situations are outlined below.) Although the decision to release a discussion document is not in itself a regulatory decision, discussion documents can establish the scope of options that Cabinet will consider in future. Therefore, where Cabinet approves the release of a discussion document, they could be implicitly deciding the direction for future policy development.

In circumstances where the discussion document presents a narrowed scope of options (i.e. does not have a range of feasible options), the release of the discussion document effectively constitutes an "in principle" policy decision. This could limit the range of options on which stakeholder/public feedback is likely and the scope for future work. (This, in turn, can limit the options that Cabinet will consider in the future). It is therefore critical to provide sufficient analysis to support Cabinet's decision to release these discussion documents.

[1] Or two or more Ministers with delegated authority from Cabinet.

Which discussion documents do not trigger the requirements?

Discussion documents with a range of feasible options are not captured by the impact analysis requirements. There are also some other situations that occur less frequently where the impact analysis requirements are not triggered:

- Cabinet is not approving the release of the discussion document. This sometimes happens when a Minister authorises targeted consultation or has been delegated the ability to release the discussion document from Cabinet.[2]
- Issues papers that seek stakeholder views on an issue or defining a problem, but do not include options to address the issue, are outside the impact analysis requirements. These documents are typically prepared at an early stage in the policy process and seek stakeholder views on whether there is a problem or issue to be addressed and, if so, what it might be. Issues papers are sometimes called 'green papers'.
- Sometimes, a Working Group or Committee will conduct independent consultation. This process does not require Cabinet approval (see Annex Three: Working Groups and Committees).

More information about Cabinet's impact analysis requirements can be found in the guidance on the Ministry for Regulation website.

Why do we consult?

Consultation is an important part of the impact analysis process for the following reasons:

- **To test officials' analysis and advice:** people who are going to be affected by regulation may have information and perspectives that differ from those within government.
- **To develop robust policy:** undertaking effective consultation during the policy development process generally results in better quality regulatory proposals that are more likely to achieve the objectives of the policy and are less likely to need amending after implementation.
- **Increased public buy-in and acceptance:** stakeholders are more likely to accept a proposal they have been involved in developing and are also more likely to comply due to better understanding of the policy.
- **New Zealand has statutory obligations or international obligations to consult in some cases:** in addition to statutory obligations, New Zealand is bound by international legal obligations in trade agreements to undertake public consultation on proposed

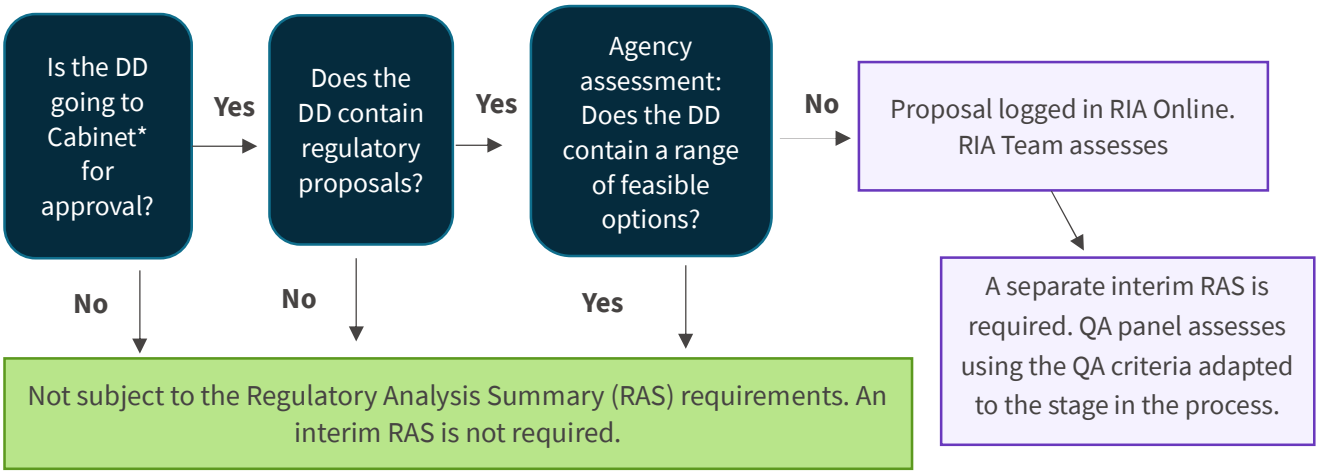
[2] Note however that if two or more Ministers are delegated authority to release a discussion document, this is treated as though Cabinet is releasing the documents for the purposes of determining whether a Regulatory Analysis Summary is required.

changes to a broad range of regulatory measures. This is explained in the following section.

Link to Regulatory Standards Act

When preparing a Consistency Accountability Statement for drafted legislation, agencies will be required to assess consistency with principle 9(i) in the Regulatory Standards Act, which relates to consultation with those directly and materially affected by a proposal.

The discussion document process



** Or two or more Ministers with delegated authority from Cabinet.*

Figure 1: Flow chart for different types of discussion documents and associated impact analysis requirements.

The agency self-assesses whether the options in the discussion document have been narrowed. If the options have been narrowed, the agency needs to enter the proposal in RIA Online**.** Based on the information provided, the RIA team determines the appropriate process for the agency to follow, advises on quality assurance (QA) arrangements, and provides the agency with the statement template for the Impact Analysis section of the Cabinet paper.[3]

As shown in Figure 1 above, there are two possible pathways depending on whether the options in the discussion document have been narrowed:

1. **The options are not narrowed and a range of feasible options are considered**. The discussion document is not captured by Cabinet's impact analysis requirements, and the

[3] If an agency has difficulty accessing RIA Online, or has questions about the process for discussion documents, they should contact the Ministry for Regulation's RIA team (RMS@regulation.govt.nz).

agency ensures the content is reviewed through their internal quality assurance process. Formal review and preparation of a QA Statement by an RIA panel is not required. However, agencies are encouraged to apply the criteria for effective consultation outlined in this guide, although it is not mandatory.

2. **The options are narrowed (a range of feasible options is not included)**. A separate interim RAS is required, covering the range of feasible options, otherwise the impact analysis requirements will not be met. The interim RAS must be reviewed by the RIA panel (or QA expert) against the QA criteria. Although the panel should be provided with a copy of the discussion document for context, formal review of the discussion document itself is generally not required. Authors can request panels to review both the discussion document and the interim RAS.

What does it mean to narrow the options?

In short to 'narrow the options' means a range of feasible options has not been included in the discussion document. But it is not always straightforward to determine whether the options under consideration have been narrowed. This is ultimately a matter of judgement. It depends on the nature of the problem and how widely it is defined.

The clearest case of narrowed options is when a discussion document is seeking feedback on only one proposed regulatory approach (i.e. there are no alternative options considered, and other options may even be explicitly excluded).

Another case of narrowed options is where only a small range of feasible options is considered in the discussion document, when there are clearly other feasible options not considered.[1]

In addition to the status quo, there are often many feasible options to address any given problem. It is not necessary to consider them all – an indicative range of feasible options is sufficient and would not be considered narrowing options. It can also be helpful to note any other options you have identified but not considered in further detail and/or excluded from further consideration.

Applying the impact analysis requirements to discussion documents in practice

If your agency has determined that a regulatory discussion document contains a range of feasible options, then engagement with the RIA Team or RIA Online is not necessary.

The following section sets out the impact analysis requirements and conditions that apply in a range of scenarios depending on whether the discussion document contains a broad range of feasible options or is narrowing the range of options (either explicitly or implicitly). A summary table of the main scenarios is attached as Annex Three.

The authoring agency should discuss with the RIA team any scenarios that fall outside those outlined below.

Scenarios for different types of discussion documents

Scenario 1: The document is an issues paper seeking stakeholder views on an issue or defining a problem but does not include options to address the issue.
The document is outside the impact analysis requirements at this stage in the process because no solutions are being proposed and Cabinet is not being asked to make an in-principle decision.

You can insert the following wording into the Cabinet paper's impact analysis section:

[Your agency's name] has determined that because this discussion document is seeking feedback on issues the Regulatory Analysis Summary requirements do not apply.

Scenario 2: The discussion document is seeking stakeholder views on a range of feasible options.
The document contains a range of feasible options, some interim analysis of those options and open-ended consultation questions. The discussion document is outside the impact analysis requirements, and a separate interim RAS is not required. The discussion document does not need to be assessed by a formal panel and can be reviewed through the agency's internal quality assurance process.

Engagement with the RIA Team or RIA Online is not necessary. You can insert the following wording into your Cabinet paper's impact analysis section:

[Your agency's name] has determined that this discussion document contains a range of feasible options, and therefore the Regulatory Analysis Summary requirements do not apply.

Scenario 3: The options in the discussion document are narrowed.
In this scenario, either the options are explicitly narrowed (i.e. there is one regulatory option or a small range of feasible options, and other options have been ruled out), or options have been implicitly narrowed.

A separate interim RAS is required to meet the impact analysis requirements covering the range of feasible options, including the narrow range of options in the discussion document. You should confirm arrangements for the interim RAS through RIA Online.

The interim RAS would be formally reviewed by the agency's panel (or QA expert) against the RAS quality assurance criteria, taking into account the stage in the process, with the QA statement

included in the Impact Analysis Section of the Cabinet paper. As part of the QA process, the panel should be provided a copy of the discussion document for context, but the discussion document itself is not required to be formally assessed.

Scenario 4: The discussion document includes a range of feasible options, but the agency chooses to prepare an interim RAS to accompany it.
In some cases, agencies may choose to prepare an interim RAS to accompany a discussion document which includes a range of feasible options. This can be useful where there is a lot of technical information in the RAS, and the agency wants to ensure the discussion document is reader friendly. The interim RAS would be assessed by the panel.

Scenario 5: The discussion document covers a large, complex reform with a full suite of analysis including some issues with no options, some full and some narrowed options.
Where there is a complex reform, the discussion document may contain a range of proposals with some more developed than others. It is likely that an interim RAS will be required if some options have been narrowed and/or there is technical material suited to a specialist audience that the agency does not wish to include in the discussion document. The agency should advise the RIA team that the discussion document forms part of a complex reform when lodging the proposal in RIA Online and request a meeting early in the process to discuss the impact analysis requirements. An outline of the content of the discussion document should be provided and the approach to the interim RAS agreed with the RIA Team.

Undertaking quality assurance of a discussion document

Applying the quality assurance criteria to discussion documents (voluntary)

> Note that under the new Cabinet Office Circular there is now no situation where quality assurance of a discussion document is required. Either the discussion document contains a range of feasible options (and is not subject to the Regulatory Analysis Summary requirements) or the discussion document narrows the range of feasible options (in which case an interim Regulatory Analysis Summary is required).

Each agency undertakes a review of the content of its discussion documents through their internal quality assurance process. Agencies may choose to apply the QA criteria in this guide, which are provided as good practice. A QA statement is no longer required, however there is standard wording about the application of the Regulatory Analysis Summary requirements to insert in the Cabinet paper, provided by the RIA team.

If the QA criteria are not met, this should be addressed by the agency before the discussion document is submitted to Cabinet. Where this is due to a narrowing of the options, an interim Regulatory Analysis Summary is required to accompany the discussion document, and the authors of the discussion document should contact the RIA Team. The agency may need to

advise their Minister's office that steps are required to address quality assurance issues prior to the discussion document being submitted to Cabinet for agreement to release it for public consultation.

Quality assurance criteria for discussion documents (voluntary)

Although it is no longer mandatory, we encourage agencies to use the following quality assurance criteria when assessing the content of discussion documents. The criteria can help to support effective consultation and the development of a good quality RAS to support Cabinet's final decisions.

Quality assurance criteria
Written in plain language and proportionate in terms of size and complexity. Is the discussion document written in language that is appropriate for the intended audience? Is it clear, concise, and well-organised? Is the level of detail and complexity appropriate for the audience? Is the length of the document proportionate to the magnitude and proposed impact of the proposal?
Clear scope and objectives. Is it clear what is in and out of scope of the consultation exercise? Are the consultation objectives clear (including decisions that have already been made by Cabinet and decisions that have yet to be made)? Is it clear how the feedback from respondents will be used to inform future decisions?
Initial analysis. Does the document clearly address the regulatory context and the nature of the problem or presenting issue/question with reference to some evidence? Does the document contain a range of feasible options? Is there some initial analysis of the possible impacts of the options?
Open consultation questions. Are the questions open and do they invite discussion? Is there scope for respondents to provide feedback on issues not covered by direct questions posed in the discussion document?

Preparing an interim Regulatory Analysis Summary to accompany the discussion document

Where the range of feasible options is being narrowed, an interim RAS will be required. At early stages of the policy process, it is often not feasible to prepare a comprehensive RAS.

The RIA Team recommends focussing on some key sections in the standard RAS template, specifically the coversheet and sections one and two, to cover the following:

- The status quo and the nature and extent of the problem
- The policy objectives

- Options analysis, which should include:
    - the criteria that will be used to assess the options (if different from the objectives)
    - identification of the range of feasible regulatory and non-regulatory options. A deregulatory option should also be included where appropriate
    - the rationale for narrowing the range of options presented in the discussion document, if the options are narrowed
    - preliminary cost benefit analysis and impacts on regulated parties to the extent possible. More information can be sought through the consultation process to inform this section in the final RAS (see consultation questions outlined in Part C: Developing effective discussion documents).
- If possible, how the options will be implemented including potential risks and possible mitigations (further information on these issues can be sought through the consultation process).

Agencies are not required to include implementation and monitoring arrangements in the interim RAS (i.e. section three in the RAS template) because detailed planning is undertaken later in the policy development process. However, plans for implementation and monitoring will need to be discussed in the final RAS when policy decisions are being sought.

Link to the Regulatory Standards Act

It is expected that the implementation plan will be further developed by the time the drafted legislation is considered by the Legislation Committee (noting that the Consistency Accountability Statement accompanying legislation subject to consistency assessment requirements will need to identify any inconsistency with the good law-making principle relating to planning for implementation – see section 9(k) of the Regulatory Standards Act).

The interim RAS needs to be published alongside the discussion document on the agency's website so it can be readily accessed by respondents as part of the consultation process.

For more information refer to *Regulatory analysis documents – publication requirements*.

Quality assurance of the interim Regulatory Analysis Summary

The interim RAS is assessed by the panel (or QA expert), and the discussion document needs to be provided to the panel as context.

The panel assesses the interim RAS against the RAS QA criteria, but the assessment is tailored to the circumstances. The QA panel should take into consideration:

- the stage of policy development,

- the nature of the decision being sought, and
- the level of analysis possible.

The interim RAS should cover the range of feasible options. Where there are gaps in the options or the analysis the panel (or QA expert) assesses whether they are likely to be addressed through the material and questions in the discussion document (see consultation questions outlined in Part C: Developing effective discussion documents).

The panel (or QA expert) should then produce a statement about whether the interim RAS "meets," "partially meets" or "does not meet" the RAS QA criteria. As with a typical RAS, the QA statement should be included in the impact analysis section of the Cabinet paper and the interim RAS itself (the structure of the statement is outlined in Annex Two).

For more information refer to *the Regulatory Analysis Summary Process – Guidance Note***.**

Part B: Best practice consultation processes

International obligations apply to the consultation process

New Zealand's international obligations to undertake public consultation on proposed changes to a broad range of regulatory proposals have implications for the way in which consultation is undertaken on discussion documents.

The consultation obligations in New Zealand's trade agreements are likely to apply to a wide range of regulatory proposals. For example, the Ministry of Foreign Affairs and Trade has identified around 165 Acts that empower the making of secondary legislation that would likely be caught by our international consultation obligations. Changes to those Acts themselves are also likely to be affected.

A regulatory proposal will be subject to such a consultation obligation if it concerns matters covered by trade agreements and would be likely to affect trade or investment. The RIA Team and the Ministry of Foreign Affairs and Trade Legal Division can provide guidance as required. A Regulatory Analysis Summary (or discussion document) can be a convenient way to provide New Zealand's trade partners with appropriate assurance on how an external consultation obligation has or will be met.

While the details of consultation obligations vary between trade agreements, they generally require:

- consultation to be public,
- sufficient detail to be provided so that interested people can understand whether and how their interests might be affected, and
- a reasonable amount of time for those people to consider and comment on the proposal.

What constitutes a "reasonable" consultation period is often not defined, but a minimum of 60 days or longer is required in some of our international agreements. Bearing that in mind, together with domestic complaints about short consultation periods, the Ministry considers that 60 days is an appropriate default starting point for what should be considered "reasonable" in New Zealand.

More information will be available in the Guidance Note - *Government consultation obligations and advance notice of proposed legislative changes (being developed and will be published soon).*

Link to Regulatory Standards Act

This section sets out details on best practice consultation for discussion documents. The recommended best practice set out below is broader than considerations that would be made by agencies when undertaking assessments of draft legislation for consistency with principle 9(l) of the Regulatory Standards Act (which relates to consultation only with those 'directly and materially affected' by a proposal). This reflects that consultation obligations arise from a range of areas beyond the Act, including from New Zealand's international obligations.

Recommendations regarding the consultation process for discussion documents

The Ministry for Regulation has made recommendations in this section regarding the consultation process.

To support effective public consultation, the Ministry for Regulation recommends that agencies aim to:

- **Actively seek feedback** by consulting widely throughout the policy development process with relevant groups. You need to ensure you are engaging with the correct groups (for instance refer box below for guidelines on engaging with Māori).
    - **Allow a reasonable time period for comment.** What is reasonable will depend on the circumstances and the nature of the proposal. The Ministry for Regulation recommends 60 days as the starting default minimum for public consultation. Justification should be provided in the Cabinet paper if the period of consultation is less than 60 days. As noted in the earlier discussion of international obligations, New Zealand has obligations to consult that apply to regulatory proposals in a wide range of sectors. This generally includes providing interested parties with a reasonable opportunity to comment, with 60 days being a common international minimum benchmark for what is considered reasonable.
    - **Advertise broadly.** To reach the widest range of potential respondents that are likely to be impacted by the proposed options, the government needs to consider how it will alert relevant people and stakeholders as early as possible to the fact that a consultation process is intended or is underway. This can include both advance notice and the use of a wide range of different communication channels, including social media, and tailored messages with different relevant audiences in mind.
    - **Make it easy to respond.** Tailor the consultation process to the preferred engagement style of those being consulted (e.g. take into account ethnic and cultural considerations).

Where proposals may affect disabled people, agencies should actively design consultation processes to enable meaningful participation, including by engaging with disabled people and their representative organisations, providing information in accessible formats, and offering reasonable accommodations.

Consultation should be fully accessible, including through alignment to Government Web Accessibility standards and through provision of documents in alternate formats (e.g. online forms, documents, face-to-face meetings/forums). Accessibility measures should normally be considered reasonably practicable unless there are exceptional circumstances, which should be documented.

Agencies should consider whether the discussion document (or a summary) needs to be translated into multiple languages. (Refer translation guidance: Unlocking Language Barriers | Ethnic Communities**,** Translation Service - dia.govt.nz).

- **Coordinate** the consultation process to the extent possible with other internal teams and other agencies on policy changes planned or underway.
    - **Consider** the proposed consultation alongside other planned initiatives in the same regulatory system[4]
    - **Minimise consultation fatigue** for stakeholder groups that could potentially be consulted by more than one agency, or by multiple consultations within the agency.

Consultation with Māori and iwi/hapū

Applying the *Guidelines for Engagement with Māori* alongside Te Tautuhi ō Rongo can assist with identifying the most appropriate process for consultation and support the systematic identification of Māori rights, interests, and affected groups.

Early and meaningful engagement can lead to more informed and enduring regulatory outcomes.

[4] This consideration would ideally be part of the process for updating the advance regulatory plan published for that regulatory system, if one exists. See Cabinet Circular Expectations for Good Law-Making (CO (26) 2), para 44. See also Ministry for Regulation guidance on "Consultation obligations and advance regulatory plans".

Part C: Developing effective discussion documents

Discussion documents should be prepared with the goal of enabling effective consultation with stakeholders and eventually lead to producing high quality impact analysis to inform Cabinet's decision making.

If a discussion document includes a range of feasible options, it will not be required to contain extensive impact analysis. However, where the options are narrowed, a separate interim RAS is required, or the impact analysis requirements will not be met. An interim RAS in this situation should outline the range of feasible options, including the options in the discussion document (see Part A for more information on how the impact analysis process applies to discussion documents).

It is recommended that discussion documents follow the structure of a RAS as far as possible, given the stage of policy development. In other words, the discussion document should provide a clear articulation of the proposed regulatory changes (i.e. a clear problem statement for stakeholder comment, make the case for government intervention and consider a range of feasible potential options to address the identified problem).

How are Regulatory Analysis Summaries and discussion documents different?

The key differences between the role and structure of RASs and discussion documents are outlined in the following table.

Regulatory Analysis Summaries	Discussion document
The RAS is the agency's document and may indicate the agency's preferred option based on impact analysis.	Discussion documents are often issued by a Minister.
The RAS needs to outline limitations and constraints on the analysis, including Ministerial direction which may limit the scope of potential policy options.	The discussion document needs to discuss any gaps in information or any limitations on the scope of potential policy decisions. It may therefore be important to make explicit any matters on which submissions are specifically not invited.

A RAS is not an advocacy document. It should provide officials' best advice on impacts, presented dispassionately and without prejudice.	A discussion document can be an advocacy document. It can (and sometimes ought to) be more provocative.
The major feedback from consultation, and the agency's responses, should be summarised in the RAS that accompanies the final Cabinet paper.	If assertions are used to justify positions or analysis in a discussion document, it is important that respondents are explicitly invited to challenge the assumptions, analysis and conclusions supporting the options being advocated. These submissions and challenges should be received and considered in good faith.
A RAS should be easy to read and understand for an informed, but non-expert decision-maker.	Discussion documents should be easy to read and understand. They should be pitched around the same level as the RAS, unless the intended audience is: • Broader, in which case respondents might need a more basic introduction in the discussion document to the policy question being discussed, or • Narrower (for example, a small population of experts), in which case respondents are likely to possess some degree of technical knowledge.

Questions that work

Questions should serve at least two functions: to invite challenge and to improve information. Effective questions are as open as possible but are explicit about what is being sought.

While open-ended questions are generally best practice, there can be benefits in some circumstances with yes/no and other closed questions that enable sound quantitative analysis to be undertaken. Scalable questions can also be used. For example, "on a scale of 1–5, how much do you agree with this objective?". These questions can enable you to analyse all the objectives to see how the audience feels about each of them. Ideally, questions should be asked after any assertion or hypothesis that can be challenged or augmented. It is useful to include a consolidated list of questions (e.g. as an appendix), so that readers have access to all the questions in one place.

The rest of this section is structured to follow the impact analysis framework found in a RAS. Each section concludes with some recommended questions.

What is a good description of the status quo for a discussion document?

A good discussion document should include a description of the current arrangements (status quo) and how they are likely to evolve without further regulatory change. In other words, the document should outline a baseline case (or a 'do nothing' scenario) that says, "Suppose we took none of the regulatory options considered here: what would happen?"

Examples of questions

- *Do you agree with this characterisation of the current arrangements? If not, please provide evidence to support your views.*
- *How would you describe the current arrangements? What would happen if no regulatory changes were made?*

Problem definition in discussion documents

Agencies should consider the size and magnitude of the problem in their problem definition. Is it clear why the problem needs to be addressed and therefore why government intervention is required? If agencies are uncertain about the reality or size of the problem, agencies should use questions to test their thinking:

Examples of questions

- *Do you agree with this characterisation of the problem? If not, why not?*
- *In your view, what are the problems with the current regulatory settings?*
- *How important are these problems?*
- *How important are they to the New Zealand public and do they need to be addressed?*
- *What are the consequences of continuing to follow (or not follow) international practice in terms of New Zealand's public interests?*
- *What evidence should we examine to inform further analysis of the problems?*

Objectives in discussion documents

The objectives in discussion documents should be clear and related to the problem definition. They should have the potential to be observable; stating what evidence would suggest a particular objective or desired outcome had been achieved.

Examples of questions

- *Have we identified the right objectives?*
- *Do you think any of these objectives are more important than others?*
- *Are there any tensions between these objectives?*

Identifying options in discussion documents

A discussion document that incorporates impact analysis should identify the range of feasible options. They do not all need to be discussed in detail, as some may be discounted.

Unless past decisions limit the set of options that can be consulted on, a discussion document should identify and describe:

- the evolution of the status quo where no further regulatory changes occur (behaviour may still be expected to change over time)
- one or more non-regulatory options (e.g. education, industry self-regulation)
- one or more regulatory options
- a deregulatory option where relevant and feasible (e.g. what would happen without regulation, if different from the status quo, or what would happen with reduced regulation).

If deliberately excluding feasible options, or options that respondents are likely to think are feasible, this section should explain why. Where the range of feasible options is being narrowed, an interim RAS will be required.

Examples of questions

- *Do you agree that these are the correct options to consider? If not, why not?*
- *What other options should we consider to solve the problem?*
- *Of the options discussed, please say which options should be considered/not considered. In both cases, please explain why.*

Options analysis in discussion documents

The criteria used to assess the options needs to be linked to the objectives, so that options are compared based on how likely they are to meet those objectives. The criteria should include which option is the most effective, efficient, and proportionate. However other criteria tailored to your portfolio can also be considered where applicable

Questions outlined in discussion documents may depend on the quality and quantity of evidence gathered so far—agencies may have limited information at the consultation stage of a policy process and should be open about that. Respondents may be aware of impacts that officials and decision-makers might not be aware of.

Discussion documents should set out agencies' preliminary views on impacts (costs, benefits, likely behavioural changes, and risks) and attempt to get better information from stakeholders. Consultation should seek sources of information, identification of other parties potentially affected by options (including an indication of likely positive and negative impacts), valuation methods and views on whether there are any other matters that may not have been considered appropriately.

Consultation questions should test agencies' consideration of options and impacts. Consultation for high quality impact analysis should aim at assessing the likelihood of the impacts - including probabilities and the projected costs and benefits of best- and worst-case scenarios.

Examples of questions

- *Do you agree with the impacts we have outlined of this option (or these options) i.e. costs, benefits, likely behavioural changes, and risks? If not, why not? Please provide evidence to support your answer.*
- *What do you consider are the impacts of this option? (It is usually best to ask about impacts and risks option-by-option).*
- *How should we value these impacts?*
- *What impacts are not included here?*
- *What is the net impact of this option?*
- *How likely is it that this option could result in greater benefits than those discussed here? How likely is it that this option could result in greater costs than those discussed here? What do you think is the best- and worst-case scenario?*
- *What are the stakeholder groups likely to be positively, or negatively, impacted by this option? How are they likely to be impacted?*
- *Are there likely to be disproportionate impacts on some affected parties (groups of people or organisations)?*
- *What sources of information should we use to assess expected costs and benefits and to assess risks?*

Implementation and monitoring

Stakeholders who closely engage with, or are affected by, the government agency that enforces or monitors the status quo will have an interest in next steps and may be able to advise whether the options are able to be implemented and genuinely feasible. Detailed plans for implementation are unlikely to have been developed at this stage, however it may be possible to give an outline of the general direction so stakeholders can have an indication of whether the plans will be effective and whether the timeframes are achievable, which could provide useful input to the final RAS.

Examples of questions

- *How should the proposal considered in this document be implemented and monitored?*
- *Do you agree with the proposed implementation and monitoring arrangements? If not, please provide evidence to support your view.*

Annex One: Interim Regulatory Analysis Summary text for the 'Impact Analysis' section in the Cabinet paper

Where the scope of options is narrowed in the discussion document, an interim RAS is required. The agency's QA panel assesses it against the RAS quality assurance criteria, taking into account the stage in the process as outlined in Part A.

Quality Assurance Statement for Interim RAS

A quality assurance panel with members from *[**insert agency or agencies if joint review**]* has reviewed the interim Regulatory Analysis Summary (RAS), *[**insert RAS title**]* produced by the ***[insert agency]*** dated *[**insert date**].* The panel considers that it *[**does not meet/partially meets/meets**]* the Quality Assurance criteria.

The panel has assessed the RAS on the basis that it is an interim RAS accompanying a discussion document.

*[**Insert one or two short paragraphs along the following lines**]*

If the assessment is "does not meet" or "partially meets," explain how the assessment relates to the relevant QA criteria. Then consider:

- *If there are gaps in the interim RAS, is this likely to impact on the effectiveness of the consultation process?*
- *Does the panel consider the gaps may be able to be addressed following the consultation process?*

[Note, if the assessment is "meets," the panel may still choose to insert a comment].

Next Steps

This quality assurance text should be included in full in the Cabinet paper. This text also needs to be included in the coversheet of the interim RAS. You will then need to ensure that the interim RAS is attached to the Cabinet paper.

Informing the QA panel of any further changes

You must ensure that any substantive changes made to the interim RAS and/or discussion document following receipt of the quality assurance statement are notified to the QA panel.

The panel will either provide confirmation that the quality assurance statement can remain intact or notify you of any further changes required to ensure the quality assurance criteria are met.

Publication of interim RAS alongside discussion document

The interim RAS should be published on the agency's website along with the discussion document for public consultation. It needs to be published in a consistent format in a standard place on the Agency's website.

The interim RAS also needs to be published on the Ministry for Regulation's website through RIA Online**.**

For more information on publication, refer to *The Regulatory Analysis Summary Process – Guidance Note*.

Annex Two: Working Groups and Committees

A Working Group or Committee may undertake independent consultation and report to the responsible Minister with their recommendations. Typically, the agency then advises the Minister on the Working Group or Committee's recommendations and then prepares a RAS on any subsequent regulatory proposals that go to Cabinet.

As the agency will need to write a RAS on any regulatory proposals that come from the Working Group or Committee, the agency should seek as far as possible to ensure that the principles of effective consultation and good impact analysis are built into the Committee's terms of reference. For example, the terms of reference should ask the Committee to clearly define the problem/s and objective(s) and describe and assess feasible options. This may not always be possible, but if it can be done, it helps avoid the prospect of having to deal with recommendations that have not been sufficiently tested and where alternatives have not been considered.

At the very least, the agency should be applying RIA processes in its advice to the Minister on the Working Group's or Committee's report. The earlier agencies incorporate RIA requirements into the process, the better the opportunity to get the fundamentals right (e.g. quality problem definition and options identification). This in turn should position the agency well to complete quality analysis to support final regulatory decisions.

For more information on the RIA process refer to the *The Regulatory Analysis Summary Process – Guidance Note*

Annex Three: Summary of main scenarios for discussion documents

DD type	Issues paper Scenario one	Discussion document (full range of options) Scenario two	Discussion document (narrowed options) Scenario three
Description	Seeks stakeholder views on an issue or defining a problem. Cabinet is not asked to make any in-principle decisions.	Seeks stakeholder views on an issue and range of feasible options. All options are considered by Cabinet.	Seeks stakeholder views on narrowed options.
Options narrowed?	Does not include options to address the issue.	No – conducts an interim analysis of range of feasible options and asks open ended questions.	Yes – options are either explicitly narrowed or implicitly narrowed.
RIA product	None.	All analysis contained in discussion document. Future RAS required.	An interim RAS is required to accompany the discussion document. Future RAS required.
QA Panel assessment	None.	Agency undertakes normal internal QA of the discussion document as with any other policy document (optional use of QA standard for Discussion Documents). QA Statement not required for Cabinet paper.	The interim RAS is assessed by a formal QA panel against the RAS criteria. A QA Statement is required for the Cabinet paper.
Other comments		The discussion document does not need to be quality assured by the panel.	The discussion document does not need to be quality assured by the panel, but it should be provided to the panel for context.