

Reference: 20190091



26 April 2019



Dear [REDACTED]

Thank you for your Official Information Act request, received on 26 February 2019. You requested:

any Treasury reports or analysis available on the proposed healthy homes standards announced on Sunday regarding rental homes.

On 22 March 2019, I sought a 20 working day extension. A response to the request is due by 26 April 2019.

Information Being Released

Please find enclosed the following documents:

Item	Date	Document Description	Decision
1.	13 November 2018	RE: Draft RIS for timely comment – healthy homes standards	Release in part
2.	4 December 2018	RE: RIS for healthy homes standards	Release in part
3.	7 December 2018	RE: Healthy Homes RIA	Release in part
4.	7 December 2018	FW: RIA QA on healthy home standards Attachment: Regulatory Impact Healthy Homes Standards 2018	Release in part

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

- personal contact details of officials, under section 9(2)(a) – to protect the privacy of natural persons, including that of deceased natural persons,
- advice still under consideration, under section 9(2)(f)(iv) – to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials,
- sensitive advice, under section 9(2)(g)(i) – to maintain the effective conduct of public affairs through the free and frank expression of opinions, and
- direct dial phone numbers of officials, under 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 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.

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

Glen Thomson
Acting Manager, Housing & Urban Growth

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From: Bob Johnston [TSY]
Sent: Tuesday, 13 November 2018 4:26 PM
To: 'Anita Balakrishnan'
Cc: Jonathan Ayto [TSY]; RIA Team [TSY]; Benno Blaschke [TSY]; Helen Huang [TSY]
Subject: RE: Draft RIS for timely comment - healthy homes standards

[IN-CONFIDENCE]

Hi Anita

Thanks for the opportunity to comment on this preliminary draft. Some comments that I hope will be useful for the next iteration.

- s9(2)(g)(i)
- p3 – the likely risks are identified here but not really addressed elsewhere in the RIA, particularly the likely effect on the rental stock, passing on costs to renters etc.
- Problem definition (p6) – can the RIA be more specific about the scale of the problem - it says “many” rental homes are cold and damp – do we have any figures, or estimates within a range? Is there anything in the BRANZ report you can draw on? Or is the evidence more anecdotal, or maybe a mixture of the two?
- p7 – before launching into a discussion of each of the issues, we suggest an introductory para saying something like there are five aspects to the problem/issue as follows: heating, ventilation etc and explain linkages between them.
- 2.2 – regulatory systems – suggest a reference to the housing and tenancy section in the MBIE regulatory stewardship strategy <https://www.mbie.govt.nz/publications-research/publications/regulatory-systems-programme/regulatory-stewardship-strategy-2017-18.pdf> and draw on whatever may be relevant there – healthy homes was one of the work areas.
- 2.4 – constraints – unclear how paras 3-5 are actually constraints? Suggest they could be deleted. Suggest you could mention any previous Government announcements on this that may have limited options.
- 2.5 what do stakeholders think? Suggest you reference how HUD determined “broad agreement”? Presumably there has been some public consultation?
- Section 3 – under each options section there is no mention of the status quo - do nothing is always the baseline against which other options are measured.
- Objectives p20 – the over-arching objective really states a preferred outcome (minimum standards) – we suggest that in fact the objective is warm, dry houses etc. Is there any hierarchy/relationships/weighting between the decision criteria?
- Section 6 – Implementation – Transitional arrangements are mentioned in the summary in section B but not in section 6? Also the enforcement aspects don’t seem to be addressed – what if landlords refuse to comply? Is there an agreed definition of a landlord? What about things like black market rentals, informal renting, rentals as part of an employment package etc?
- Review – p37 – suggest more specifics around who will be responsible for the progress reports and who/how they will be reporting to? Will they be made public?

I will get one of our CBA experts to have a look at the tables.

I hope this is helpful.

Regards

Bob

From: Anita Balakrishnan
Sent: Tuesday, 13 November 2018 9:28 AM
To: Bob Johnston [TSY]
Subject: Re: Draft RIS for timely comment - healthy homes standards

Hi Bob,

Just wondering if you have had a chance to look at this RIS, and if you'd like to catch up or have any questions?

Kind regards,
Anita

From: Anita Balakrishnan
Sent: Thursday, 8 November 2018 10:12:24 AM
To: Bob Johnston [TSY]
Cc: Joanna Gordon; Cade Bedford
Subject: Draft RIS for timely comment - healthy homes standards

Hello Bob,

Further to our catch up last week, I have attached a draft RIS for your comments and guidance in advance of us sending a more finalised RIS next week.

I would be grateful if you could please identify any areas that still require further work. Some of these we have already highlighted, either through bright yellow or with a red font. We are continuing to work on further sections and we will build on this draft over the coming days.

I am sending the draft RIS in advance to get your comments in order to manage the timing risks that we are facing with this. As mentioned, we are required to get the finalised RIS and Cabinet paper to the Minister in sufficient time for his review and consultation with his ministerial colleagues before lodging in time for SWC consideration on 12 December. This timing is necessary in order for us to meet the requirement for the regulations to come into effect on 1 July 2019. We would ideally like to get the RIS and draft Cabinet paper to the Minister later next week.

As always, I'm happy to chat or meet up at any time. I have also copied in Joanna Gordon on this email in case I'm proving hard to contact.

I look forward to your thoughts.

Kind regards,
Anita

ANITA BALAKRISHNAN
PRINCIPAL POLICY ADVISOR, TENANCY AND RENTAL HOUSING QUALITY

Ministry of Housing and Urban Development

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From: Bob Johnston [TSY]
Sent: Tuesday, 4 December 2018 4:05 PM
To: 'Cade Bedford'
Cc: Jonathan Ayto [TSY]; RIA Team [TSY]; Benno Blaschke [TSY]; Helen Huang [TSY]; Nigel Hubbard; Claire Leadbetter; Anita Balakrishnan
Subject: RE: RIS for healthy homes standards

Thanks Cade

My apologies for the delay in getting back to you, we have been having a busy time here with the end-of-year rush.

We still have concerns that the RIA does not address some of the matters we discussed, specifically that the RIA:

- continues to locate some of the material in wrong parts of the template (e.g. the problem definition part of the front Summary has blown out to 1.5 pages instead of 1 paragraph)
- does not clearly or simply explain the limitations on options (it only looks at standards that can be set under the HHG, but doesn't explain why)
- does not clearly identify or address some of the main behavioural assumptions or questions (on level of landlord compliance with the standards, likely tenant use of heating devices installed by landlords, regulator enforcement effort and prioritisation, which tenants will be most affected by landlord responses, etc)
- as a consequence of bullet 3 above, also misses key risks, and evidence uncertainty
- may not have specified an appropriate counterfactual (in that it is unclear whether the status quo baseline takes account of other initiative underway including the Winter Energy Payment, or the Healthy Homes Initiative noted on page 8)
- does not satisfactorily explain some of the information in the impact analysis tables, eg, it is unclear about the weighting of the 4 criteria and the likelihood that the first two criteria ("ability to achieve the objective", and "net costs and benefits") are correlated and hence may involve an element of double counting.

As we have indicated, the RIA has considerable potential to draw on existing material (especially NZIER's CBA paper) to address some of these concerns.

On the assumption that there won't be time to review any further iterations, and given that we have already reviewed three drafts, our QA assessment is therefore that the RIA partially meets the QA criteria.

The QA statement for the Cabinet paper and RIA is as follows:

"The Treasury Regulatory Quality Team has reviewed the Regulatory Impact Assessment "Healthy Home Standards" prepared by the Ministry of Housing and Urban Development and considers that that information and analysis partially meets the Quality Assurance criteria.

The proposal has been well consulted with key stakeholders. The proposal is supported by Cost Benefit Analyses prepared by the NZIER and the Ministry of Housing and Urban Development. This information together amounts to a case for the proposed change. However, the RIA itself does not set out some of the information in as compelling and organised way as it could, for instance failing to explain the limitations on options, not identifying some of the main behavioural assumptions or questions, and not explaining the material satisfactorily in the impact analysis tables. With time for further work, we believe that the RIA could have had the potential to meet the QA criteria."

Regards

Bob

From: Cade Bedford
Sent: Friday, 30 November 2018 9:42 AM
To: Bob Johnston [TSY]
Cc: Jonathan Ayto [TSY] ; RIA Team [TSY] ; Benno Blaschke [TSY] ; Helen Huang [TSY] ; Nigel Hubbard ; Claire Leadbetter
Subject: Re: RIS for healthy homes standards

Hi Bob

Please find attached an amended version of the Healthy Homes Standards Regulatory Impact Assessment based on your feedback.

As discussed earlier the Minister intends to take this paper to SWC on the 12th of December.

Kind regards,

Cade Bedford

Policy Advisor, Tenancy & Rental Housing Quality
Ministry of Housing and Urban Development

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MINISTRY OF HOUSING
AND URBAN DEVELOPMENT



From: Bob Johnston [TSY] <Bob.Johnston@treasury.govt.nz>
Sent: Friday, November 23, 2018 4:08 PM
To: Anita Balakrishnan
Cc: Jonathan Ayto [TSY]; RIA Team [TSY]; Benno Blaschke [TSY]; Helen Huang [TSY]; Nigel Hubbard; Cade Bedford
Subject: RE: RIS for healthy homes standards

[IN-CONFIDENCE]

Hello Anita

Thanks for the revised RIA for review, and for the subsequent Cabinet paper s9(2)(f)(iv). As a general comment, both of the latter documents contain very helpful information, eg, on implementation, that we suggest should be included in the RIA to ensure that it meets the QA criteria.

[Comments](#)

Our specific comments are as follows:

[Section 1](#)

- We suggest that the key limitations section needs to address some of the behavioural assumptions identified in the supporting documentation – for instance that 50% of tenant households would pursue the target temperatures (p23 of CBA), or that 75% of landlords will voluntarily comply with the standard (p16 of budget bid).

Section 2

- There is repetition in this section that could be usefully addressed – 2.1 and 2.3 are essentially covering the same ground. This may be a problem related to the template (which we are currently revising) as much as anything. 2.1 should focus on the context of the issue, eg, things like the size of the market, the industry structure, social context, environmental state etc and what would happen if we did nothing (which is covered on p8). Instead most of 2.1 is really focused on the problem, as is indicated in the sub-heading (What is the problem with NZ rental homes?) on p7. So we would suggest moving most of this info into 2.3 and keep 2.1 focused on the context.
- We suggest that it would be useful to bring some of the empirical information supporting the problem definition scattered in the sub-headings into an upfront statement in the problem definition eg, the reference under heating on p7 to 22% of rental homes having no fixed heating. This would help explain the magnitude of the more vague statements in 2.3 about “many” homes being cold and damp etc. s9(2)(f)(iv)

- s9(2)(f)(iv) – this does is not highlighted in the RIA, and goes back to our earlier comment about why the current regulatory regime is failing and why the new approach would be any better. So we recommend expanding on the point about what are the problems with the current regulatory regime? The RIA does a good job in explaining the current regulations in 2.2 but if everything was working well presumably there would be no need for Standards. Or is it addressing a gap in the current regulatory regime? In any event, this needs to be clarified. We also note that the changes to the Residential Tenancies Act regarding smoke alarms and insulation standards don't come into effect until 1 July 2019 – why are these changes, which haven't even come into effect, not enough?

Section 3

- Some of the decision criteria pre-suppose an outcome, eg, able to achieve the objective. Objectives should not pre-justify a particular solution. The assessment/decision criteria are means of determining how to choose between different potential ways of achieving the objective. Common examples of criteria are suitability, feasibility, accountability, equity and fairness. We suggest that the criteria need to be reconfigured.

Section 4

- Further to the comments in section 1, we suggest that some of the behavioural implications of the Standards need to be highlighted more, eg, what will landlords do in terms of compliance? What will be the effect better-off tenants as opposed to more vulnerable ones?
- The CBA uses two discount rates – of 4% (in line with WUNZ) and a variant of 6% (the Treasury standard). We suggest that the RIA needs to clarify why this approach was used, particularly in light of recent issues around the use of non-standard discount rates in CBA in MBIE.

Section 6

- Implementation is a crucial aspect of this proposal, and as the draft states, a big part of the problem appears to be that landlords and tenants may not be clear about their obligations and responsibilities. In that connection, the budget bid was very helpful. For instance, we suggest that the RIA include more information on the:
 - Information and education programme;

- o heating compliance tool
- o Enforcement programme – 2000 interventions etc

Provisional QA assessment

At the moment, we don't think that the RIA meets the criteria of complete and convincing. However, there is information to be found in the supporting documentation (s9(2)(f)(iv), Cabinet paper) that if incorporated in the RIA would most likely lead to a 'meets' the QA criteria.

Given we have looked at two drafts now, I suggest it would be quicker, given your timeframes, if we were to meet early next week to discuss. Please let us know when would be a suitable day/time and we will take it from there. I'm not here Monday morning, but could do Monday afternoon after 2.00 or Tuesday apart from 10.30 -11.30 am and 2-3.00 pm.

Regards

Bob

From: Anita Balakrishnan <Anita.Balakrishnan@hud.govt.nz>
Sent: Wednesday, 21 November 2018 10:57 AM
To: Bob Johnston [TSY] <Bob.Johnston@treasury.govt.nz>
Cc: Jonathan Ayto [TSY] <Jonathan.Ayto@treasury.govt.nz>; RIA Team [TSY] <RIA.Team@treasury.govt.nz>; Benno Blaschke [TSY] <Benno.Blaschke@treasury.govt.nz>; Helen Huang [TSY] <Helen.Huang@treasury.govt.nz>; Nigel Hubbard <Nigel.Hubbard@hud.govt.nz>
Subject: RIS for healthy homes standards
Importance: High

Hello Bob,

Please find attached a RIS for your assessment. I believe we have considered and incorporated your earlier comments from 13 November.

Just FYI, following a catch up with the Minister's office yesterday, our current timeframe is as follows:

- 21 November 5pm: draft Cabinet paper to Minister and other agencies by 5pm
- 26 November 5pm: deadline for feedback and changes incorporated
- 28 November - 4 December: Ministerial/cross party consultation
- 5 December: lodged for SWC consideration on 12 December, and Cabinet on 17 December.

Please let me know if there is anything requiring further action. Thank you for your help to get it to this point.

Kind regards,
Anita

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From: Bob Johnston [TSY]
Sent: Friday, 7 December 2018 9:20 AM
To: 'Cade Bedford'
Cc: Claire Leadbetter; Jonathan Ayto [TSY]; 'Rodney.Harris@hud.govt.nz'; RIA Team [TSY]; Ruohan Zhao [TSY]
Subject: RE: Healthy Homes RIA

[IN-CONFIDENCE]

Hi Cade

Thanks for the opportunity to review the revised RIA on healthy home standards.

We are satisfied that this now meets the QA criteria.

The QA statement for the Cabinet paper, and to include in the appropriate part of the RIA itself, is as follows:

“The Treasury Regulatory Quality Team has reviewed the Regulatory Impact Assessment (RIA) “Healthy Home Standards” prepared by the Ministry of Housing and Urban Development and considers that that information and analysis meets the Quality Assurance criteria.

The proposal has been well consulted with key stakeholders. The proposal is supported by Cost Benefit Analyses prepared by the NZIER and the Ministry of Housing and Urban Development, which is summarised in the RIA. The RIA identifies the key risks, such as the tenant and landlord behavioural assumptions underlying the analysis. The analysis is constrained to the powers enabled under the Healthy Homes Guarantee Act, and is set out in the context of a wider number of related government initiatives.”

Good luck with it all at Cabinet Committee next week and have a good holiday break.

Regards

Bob and Jonathan

From: Cade Bedford
Sent: Thursday, 6 December 2018 2:01 PM
To: Bob Johnston [TSY]; Jonathan Ayto [TSY]
Cc: Claire Leadbetter
Subject: Healthy Homes RIA

Hi Bob and Jonathon

We have amended the healthy homes regulatory assessment (changes tracked) to reflect your written and verbal comments. We intend to lodge the paper by 3pm tomorrow and hope this delay in lodgement allows sufficient time for you to reassess the RIA.

Thanks again for your time yesterday Jonathon. As discussed we have paid particular attention to the limitations on options section and the risks and unintended impacts.

Additions to these sections outline behavioral assumptions including additional information on distributional effects and wider effects on the rental market.

For other requested changes I have reduced material where requested in the problem definition section. For bullet point five we have not amended the counterfactual section as discussed yesterday. For bullet six following your comments on the impact analysis tables we have made minor amendments that better reflect our analysis of the options.

We have also made an addition to the compliance time frame options after receiving ministerial feedback. This additional option differs from official advice so is included as a record of a difference in view.

Kind regards,

Cade Bedford

Policy Advisor, Tenancy & Rental Housing Quality
Ministry of Housing and Urban Development

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From: Bob Johnston [TSY]
Sent: Friday, 7 December 2018 10:10 AM
To: Corwin Wallens [TSY]
Subject: FW: RIA QA on healthy home standards
Attachments: Deleted - Not Relevant to Request

FYI

From: Bob Johnston [TSY]
Sent: Thursday, 6 December 2018 5:25 PM
To: Kelly Chapman [TSY]
Cc: Jonathan Ayto [TSY]
Subject: FW: RIA QA on healthy home standards

Hi Kelly

More on this one.

We were contacted by HUD on Wednesday to see if we would consider a revised draft, as they are very keen to avoid a partially meets if at all possible s9(2)(g)(i). Interestingly, Claire at HUD mentioned they had been called in to a Cabinet committee meeting to be quizzed on a previous partial meets.

s9(2)(g)(i)

s9(2)(g)(i)

They subsequently sent us a revised draft (attached).

Jonathan and I are comfortable that what they have done gets it over the line.

The revised QA statement for your consideration is as follows:

“The Treasury Regulatory Quality Team has reviewed the Regulatory Impact Assessment (RIA) “Healthy Home Standards” prepared by the Ministry of Housing and Urban Development and considers that that information and analysis meets the Quality Assurance criteria.

The proposal has been well consulted with key stakeholders. The proposal is supported by Cost Benefit Analyses prepared by the NZIER and the Ministry of Housing and Urban Development, which is summarised in the RIA. The RIA identifies the key risks, such as the tenant and landlord behavioural assumptions underlying the analysis. The analysis is constrained to the powers enabled under the Healthy Homes Guarantee Act, and is set out in the context of a wider number of related government initiatives .”

Jonathan – anything you would like to amend/add?

Regards

Bob

s9(2)(g)(i)

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s9(2)(g)(i)

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