

Treasury Report: Current State Regulatory Processes

Date:	12 April 2024	Report No:	T2024/1020
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Action sought

	Action sought	Deadline
Hon David Seymour Minister for Regulation	Discuss attached slides (titled 'current state regulatory processes') with officials on 16 April 2024	16 April 2024

Contact for telephone discussion (if required)

Name	Position	Telephone	1st Contact
Felicity Parsons	Senior Analyst, Regulatory Strategy	9(2)(a) (wk)	N/A (mob) ✓
Pip van der Scheer	Manager, Regulatory Strategy	9(2)(a) (wk)	N/A (mob)

Minister's Office actions (if required)

Return the signed report to Treasury.

Note any feedback on the quality of the report

Enclosure: Attached as separate document – Current State Regulatory Processes

Treasury Report: Current State Regulatory Processes

Recommended Action

We recommend that you:

- a **discuss** attached slides (titled 'current state regulatory process') with officials and the Ministry for Regulation on Tuesday 16 April 2024. In particular, we're keen to understand from you:
- Is there anything in these slides, or missing from these slides, which you would like us to provide further information or advice on?
 - Where do you see opportunities for improving the efficiency and effectiveness of the system?

Pip van der Scheer
Manager

Hon David Seymour
Minister for Regulation

_____/_____/_____

Treasury Report: Current State Regulatory Processes

Purpose of Report

1. The purpose of this report and attached slides (titled 'current state regulatory processes') is to respond to your interest in better understanding how the current Regulatory Management System (RMS) could be improved. In particular, we understand you are interested in identifying where there are opportunities to reduce the burden on agencies and Ministers throughout the policy and legislative development process.
2. We have deliberately focussed the scope of the process outlined in the slides to the part of the process we understand you're particularly interested in at this point. Namely, from the point of an idea for a potential new regulatory proposal, through to the introduction of the Bill (or the creation of legislation in the case of secondary legislation).
3. Slide 1 focuses on the stages involved for a new regulatory proposal and the processes often required or recommended as part of those stages. It also outlines the purpose of each of the key processes, specifically for agencies, Ministers and the public.
4. Slide 2 outlines the regulatory processes alongside the high-level process steps required for other types of proposals. This broader picture shows how the process for regulatory proposals aligns with the processes for other types of proposals. This includes regulatory proposals with climate implications, non-regulatory proposals, fiscal proposals and new investment proposals. These other processes may be in addition to, or instead of, the regulatory process steps, depending on the nature of the proposal.
5. We have identified some areas in the process where we think there could be further discussion about potential opportunities for improvement, alignment or amendment in order to reduce the burden on agencies and strengthen the quality of the process. We would like to discuss these with you in further detail.
6. In particular, we're keen to understand from you:
 - Is there anything in these slides, or missing from these slides, which you would like us to provide further information or advice on?
 - Where do you see opportunities for improving the efficiency and effectiveness of the system?

Additional Context to Note

Systemic Nature

7. When considering potential opportunities for improvement in the regulatory process, it's worth noting the nature of the processes as part of the wider system. The processes and products outlined are heavily inter-connected and the quality and value of one process will significantly impact the quality and value of other products further downstream.
8. Similarly, removing one process step from the system is likely to have implications for other parts of the policy and legislative process.

Compliance and Quality

9. There is a varying degree of compliance and quality within the regulatory impact analysis process.
10. In particular, there has recently been an elevated level of RISs not being provided, or RISs which fail to meet minimum quality standards. In 2023, there were 25 cases that fell into these categories (~7% of regulatory proposals) and so far in 2024 there have been 11 cases (~8% of regulatory proposals).
11. We can provide further detail and data around this at a later point as needed.

International Commitments

12. New Zealand has a number of international commitments on Good Regulatory Practice (GRP) through expectations and obligations in recent trade agreements (including but not limited to CPTPP; NZ-UK FTA; NZ-EU FTA (expected to come into force by mid 2024)).
13. These commitments include:
 - undertaking and publishing impact assessments of proposed regulatory measures
 - public consultation on proposed regulatory measures.
 - publishing final regulatory measures in a prompt and accessible way
14. Most of these issues already feature in New Zealand's RMS and are consistent with the government's regulatory agenda. However, the informal nature of some of our existing expectations, and the often devolved and unmonitored responsibility for meeting them, means that we need to strengthen and extend some of our RMS tools and processes in order to offer plausible assurance that New Zealand is meeting its GRP commitments in good faith (T2023/2156 refers).

Next Steps

15. Officials are available to discuss this report and the attached slides with you on Tuesday 16 April 2024.

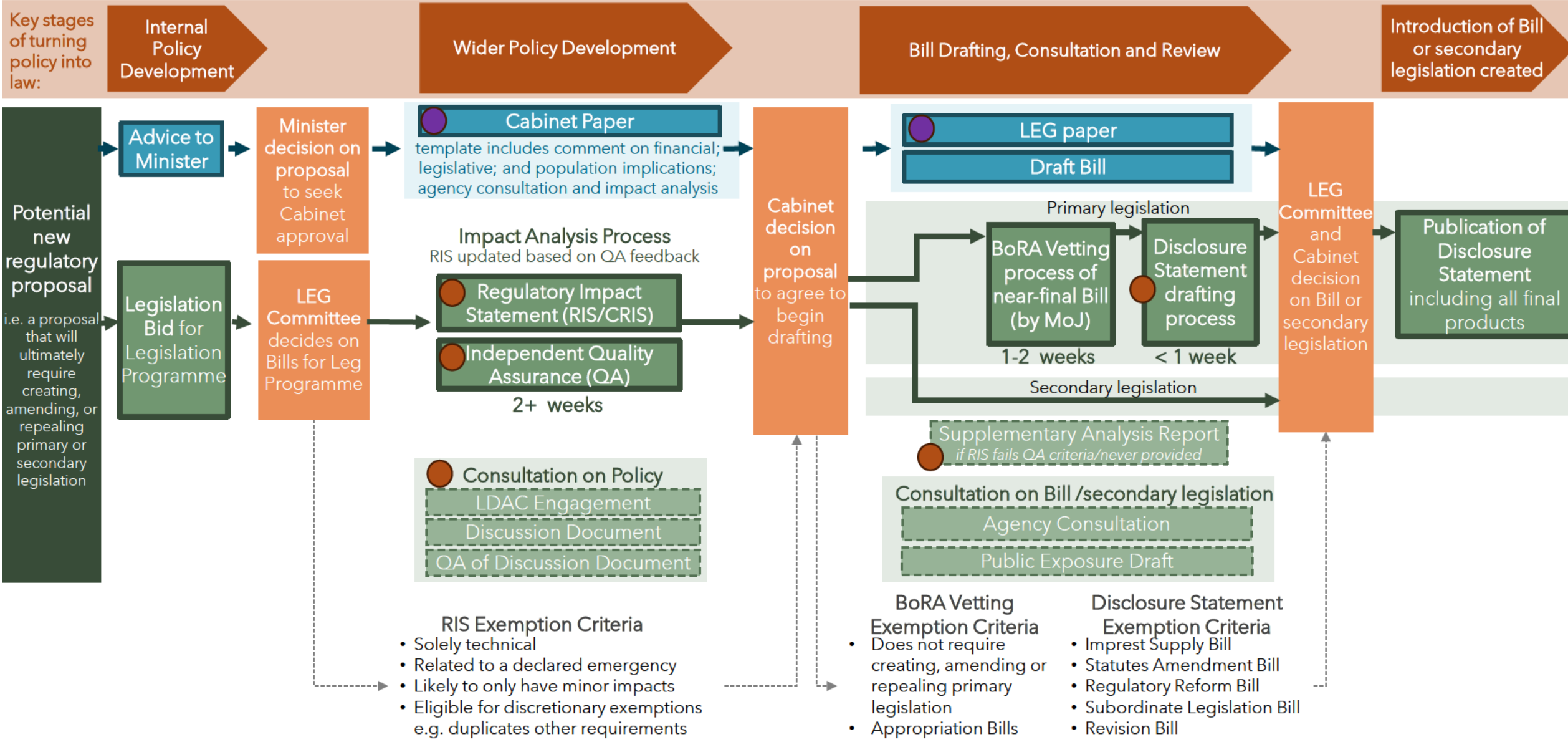
Current State Process:

New Regulatory Proposals

This slide shows the current key regulatory management system processes; their value for ministers, agencies and the public; and why they occur where they do in the 'turning policy into law' process.

Key:

- Regulatory processes that are often required or recommended
- Regulatory processes that are not necessarily required or recommended
- Policy processes that are always required
- Decision points
- Areas for discussion (purple indicates process is outside Ministry for Reg's responsibility)



Purpose of Regulatory Processes

(particularly at this point in the process)

- Purpose of Impact Analysis process:**
- For Ministers: allows Cabinet to critically assess the robustness of the policy proposal.
 - For Agency: ensures systematic, evidence-informed consideration of, the policy problem; available options; and material impacts and risks; to reduce impact of natural biases and mental shortcuts.
 - For Public: transparency of policy development process via publishing of RIA.

- Purpose of BoRA Vetting process:**
- For Ministers/Agency: Provides clear view on whether there is a potential for the proposal to breach BoRA and the opportunity to amend proposal accordingly before Bill goes to LEG. Helps meet legislative obligations and mitigates the possibility of the Act being challenged in court for potential BoRA breaches and associated costs.
 - For Public: transparency on whether Bills are consistent with the BoRA.

- Purpose of Disclosure Statement process:**
- For Ministers/MPs/Public: Transparency and visibility of the development and content of legislation. Brings together, and provides easy access to, information about the Bill in one place before Bill is introduced e.g. explanatory note; RIS; BoRA implications; any significant powers or unusual features of interest of the Bill.
 - For Agency: Helps ensure best practice policy development processes are met.

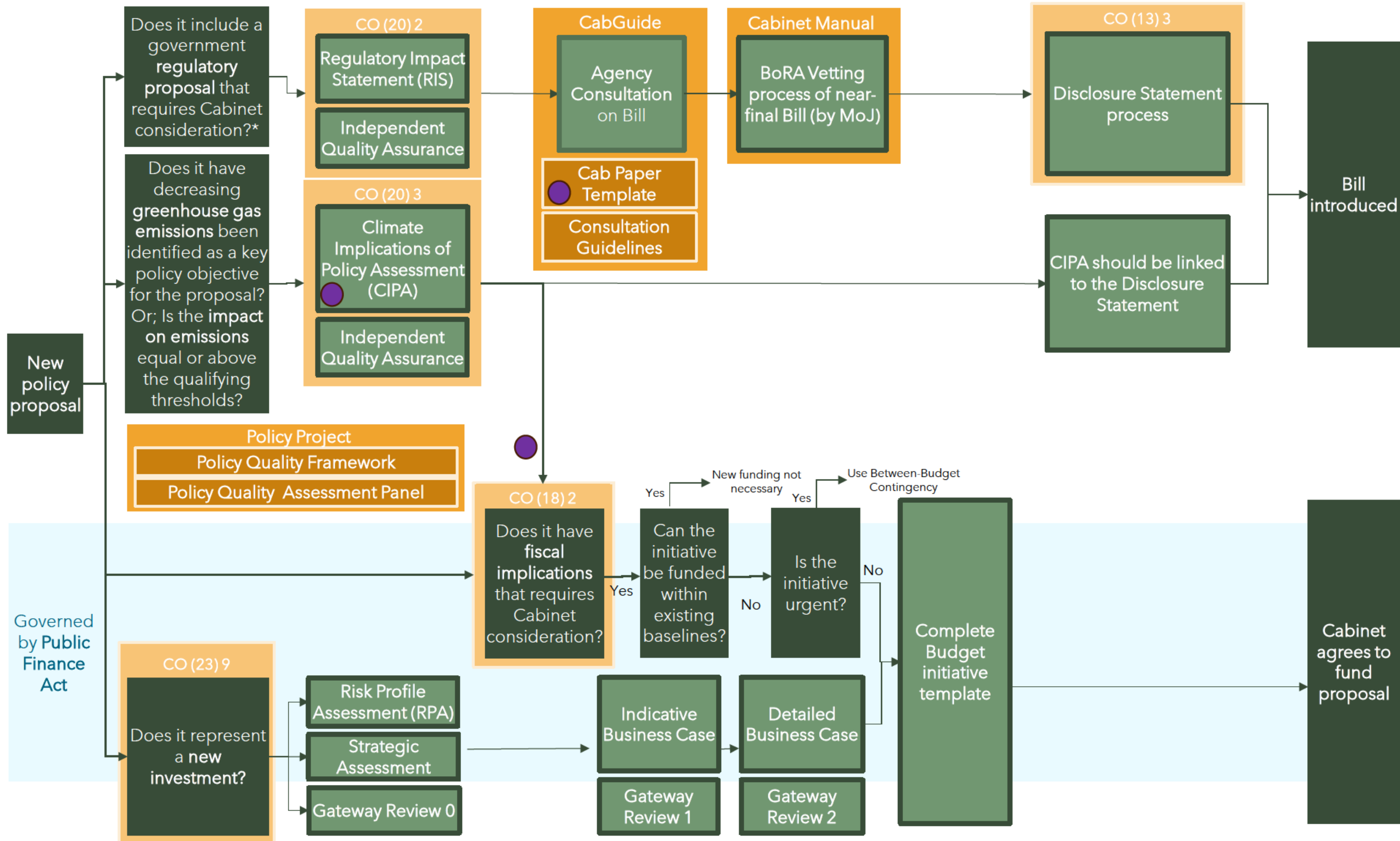
Current State Process:

All New Policy Proposals (with central agency processes)

This slide shows at a high-level how the current key regulatory processes fit within the wider system of different types of new policy proposals. Each of these tracks aren't mutually exclusive.

Key:

- Regulatory process that is often required or recommended
- Cabinet Office Circulars
- Other Central Agency guidance and processes
- Areas for discussion (purple indicates process is outside Ministry for Reg's responsibility)



*New Zealand has international obligations relating to RIA and public consultation for some kinds of regulatory changes