Interim Regulatory Impact Statement:

Replacing the National Policy Statement for Freshwater Management 2020

Coversheet

Purpose of Document	
Decision sought:	*This interim analysis is intended to support Cabinet decisions on which proposals should be progressed to public consultation on options to replace the National Policy Statement for Freshwater Management 2020*
Advising agencies:	*Ministry for the Environment (MFE)* *Ministry for Primary Industries (MPI)*
Proposing Ministers:	*Minister Responsible for RMA Reform* *Minister of Agriculture* *Associate Minister for the Environment*
Date finalised:	*12 March 2025*

Problem Definition

The Government is concerned that the National Policy Statement for Freshwater Management (NPS-FM) 2020 has become too complex to implement, lacks flexibility, and has the potential to impede other key outcomes that are important to New Zealanders from being achieved (such as wider priorities for the primary sector). The Government has committed to reviewing and replacing the NPS-FM within this term of local Government.

The Government is also concerned that Te Mana o te Wai (TMoTW) - (the fundamental concept of the NPS-FM) is not correctly balanced and lacks clarity about its meaning and how it is intended to operate. The National Party/ACT New Zealand and National Party/New Zealand First Coalition Agreements commit to rebalance TMoTW to better reflect the interests of all water users.

This interim Regulatory Impact Statement (RIS) focusses on the following three issues within the scope of these commitments, which address core components of the NPS-FM:

- Issue one: TMoTW provisions could be clearer and more certain about the meaning of the concept and how it operates.
- Issue two: The required pace, scale and cost for achieving freshwater improvement is unclear, and there is insufficient recognition of key government priorities within objectives and policies.
- Issue three: Limited ability for councils to take account of regional variation when setting environmental limits under the National Objectives Framework (NOF).

Executive Summary

Scope

The proposals in this interim RIS respond to government commitments to review and replace the NPS-FM and to rebalance TMoTW to better reflect the interests of all water users. In October 2024, Cabinet agreed the scope of proposals to replace the NPS-FM

and directed officials to use the 2017 version of the NPS-FM as a starting point for targeted engagement. Cabinet also agreed to explore adjustments in key areas including TMoTW provisions, additional objectives and/or policies within the NPS-FM to achieve current government priorities, and flexibility in the values and attributes within the NOF. Consistent with this Cabinet direction, the options considered in this interim RIS are based on looking at elements of the 2017 and 2020 versions of the NPS-FM.

Process/consultation

Targeted engagement was undertaken in November 2024 to February 2025, which informed understanding of the policy problems and development, and assessment of the proposals contained in this interim RIS. This RIS has been prepared to support Cabinet decisions on proposals that will be progressed through to public consultation.

Following public consultation, feedback will inform final advice and options included within the final RIS to support Cabinet decision making.

Proposals for public consultation

This interim RIS provides options for addressing the three identified issues that relate to core components of the NPS-FM.

Issue one: Te Mana o te Wai

The NPS-FM includes the concept of TMoTW which refers to the fundamental importance of freshwater and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. TMoTW includes a hierarchy of obligations that prioritises:

- first, the health and well-being of waterbodies and freshwater ecosystems
- second, the health needs of people (such as drinking water)
- third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

The TMoTW provisions could be clearer and more certain about the meaning of the concept and how it is intended to operate within the NPS-FM.

Five options were considered alongside the status quo for this issue:

- Option one: reinstating the 2017 NPS-FM TMoTW provisions
- Option two: retaining the three components of the 2020 NPS-FM definition of TMoTW, with amendments to provide clarity about its meaning and how it operates
- Option three: option two, plus replace the hierarchy of obligations with text from the 2017 NPS-FM that can be considered its precursor
- Option four: option two, plus remove the hierarchy of obligations completely
- Option five: remove TMoTW provisions entirely

Option one does not provide greater certainty or clarity about the meaning of TMoTW and how it operates. The 2017 NPS-FM provisions previously gave rise to uncertainty as TMoTW was not clearly defined and the 2017 NPS-FM contained little direction on how it was to be implemented.

Option two would amend the 2020 NPS-FM TMoTW definition to provide greater clarity about its meaning and how it operates. A key amendment would make it explicit that TMoTW provides for progressive improvements to freshwater over time. In addition,

TMoTW provides for progressive improvements to freshwater over time. In addition, TMoTW would not apply to resource consenting.

Options three, four, and five would remove from the NPS-FM an element or an entire framework that has been regarded as progressing Crown assurances recorded in the Supreme Court on Māori freshwater rights and interests,[1]

All options have the potential to weaken the overall influence TMoTW has on freshwater management as a concept within the NPS-FM.

Option two is likely to best achieve the policy objectives.

Issue two: The required pace, scale and cost for achieving freshwater improvement is unclear, and there is insufficient recognition of key government priorities within objectives and policies

Two options were considered alongside the status quo for this issue:

- Option one: reverting to the 2017 NPS-FM
- Option two: revising the NPS-FM to include objectives and policies that set direction on scale, cost and pace of change needed, and new objectives to meet specific priorities

Option one would provide better direction on the balance needed in managing freshwater, and on the consideration of scale, pace and costs of achieving freshwater outcomes.
However, it does not address the issues with the 2017 policy on "maintain or improve" (that were addressed in the 2020 version), which is that it arguably allows for significant localised degradation of water quality provided improvements are made elsewhere (through the reference to "overall" improvement). And it does not provide for specific Government priorities (such as water storage and vegetable growing).

Option two would provide better direction on achieving balance, especially in terms of the necessary consideration of scale, pace and costs of achieving freshwater outcomes. It also addresses the issues with the 2017 policy on "maintain or improve", and provides for specific Government priorities (such as water storage and vegetable growing) through new objectives and policies.

Option two is likely to best address the policy objectives.

Issue three: Limited ability for councils to take account of regional variation when setting environmental limits under the NOF

Two options were considered alongside the status quo for this issue:

- Option one: reverting to the 2017 NPS-FM
- Option two: revising the NPS-FM to introduce optionality for some attributes, and provide flexibility in thresholds and methods
- Option three: provide full flexibility for values, attributes and national bottom lines by making them all optional

[1] Recorded in *New Zealand Maori Council v Attorney General* [2013] NZSC 6, [2013] 3 NZLR 31 at [145].

Option one provides a less complex framework than the status quo but does not provide additional flexibility for councils to take account of local circumstances beyond the removal of the requirement to manage certain attributes.

Option two provides greater flexibility for councils to take into account local circumstances, both in choosing whether to manage the optional attributes, and in considering whether to deviate from the default national thresholds and monitoring methods. However, with that comes an increased risk of debate and litigation through the freshwater planning process.

Option three provides greater flexibility for councils to take into account local circumstances in choosing which (if any) attributes to manage and where national bottom lines are necessary (if at all). However, it risks greater debate at the local level, and if key attributes are not managed, it will not be possible to assess the health of the environment and the effectiveness of actions taken to maintain or improve freshwater (noting councils still have the function of controlling land use for the purpose of maintaining and enhancing freshwater, under s30 of the Resource Management Act 1991 (RMA).

- Option two is likely to best address the policy objectives.

Limitations and Constraints on Analysis

This interim RIS has been informed by targeted engagement, to support development of options for public consultation. Following public consultation, feedback will inform further analysis to support the final RIS and Cabinet decisions (ie, on whether to progress any changes).

The analysis in this interim RIS is constrained and limited by several factors, including:

- scope set through Ministerial direction
- compressed timeframes
- stakeholder engagement
- concurrent policy changes affecting the status quo
- quality and availability of evidence
- status quo (implementation of the 2020 NPS-FM)

Scope

This problem definition, analysis and the scope of options considered is constrained by Cabinet decisions and Ministerial commissioning. The analysis assesses options addressing manifesto commitments and high-level direction provided by early Cabinet decisions.

The scope is also limited to options that can be progressed through the Government's resource management (RM) reform programme. We note there are constraints under the RMA for how options can be progressed, and further legislative changes (outside the scope of this analysis) may be required in order for some other options to be feasible. Ultimate solutions for problems identified may be better addressed by Phase 3 of the RM reform.

As replacement of the NPS-FM falls within the National Direction work programme, the high-level objectives and criteria for the options analysis in this interim RIS (including how to assess and weigh criteria) have been decided for the programme as a whole for consistency, so there is no ability to tailor them for this specific policy instrument.

Compressed timeframes

Cabinet decisions and Ministers' commissioning set timeframes under which this proposal has been developed, with options anticipated to be progressed as part of the National Direction work programme (Phase 2 of the Government's RM reform programme) with an expected delivery date of mid-late 2025. These constrained timeframes impact the quality of our data and evidence (ie, relying on data/evidence that is readily available, with limited ability to procure further evidence), as well as our ability to engage meaningfully with stakeholders and iwi/Māori (discussed below).

Stakeholder engagement

Feedback on these proposals is limited and is summarised in section 2. Targeted engagement on policy options was undertaken from November 2024 – February 2025. Public consultation will be important to ensure that stakeholder and iwi/Māori views are reflected in the development of policy options and recommendations in the final RIS.

Concurrent policy changes affecting the status quo

This analysis considers the status quo as per legislation that is currently in place. However, the Government has announced its intention to amend and replace multiple legislative instruments (as part of RM reform) that will change the status quo in terms of freshwater management, once passed. These include, but are not limited to, the replacement of the RMA itself, amendments to the freshwater farm plan system, and amendments to (or new) national direction instruments covering 4 key areas: infrastructure and energy, housing, farming and primary sector, and emergencies and natural hazards. There remains a high level of uncertainty as to what these changes will be and when they will be implemented, but in some cases (particularly the introduction of a new RM system) they will significantly impact the future status quo.

Evidence and uncertainty

Consequences for the freshwater planning processes and implementation steps required to give effect to any proposed, existing or past version of the NPS-FM are extremely complex. The regulatory impacts involve interactions among social, environmental, cultural and economic aspects, all of which involve uncertainty and there is limited evidence available to predict and quantify the effects from different components and associated options. Even if there was more time and more high-quality evidence available, the uncertainty would remain very high. Especially when the government objectives include providing greater flexibility and local decision making –which add extra layers of uncertainty.

Status quo (implementation of the 2020 NPS-FM)

The primary mechanism through which regional councils give effect to the NPS-FM is via their regional planning processes which typically take several years. Notification of freshwater plans giving effect to the 2020 NPS-FM was not required until the end of 2024. This timeframe was extended until 31 December 2027.[2] This means that the status quo 'on the ground' is that freshwater planning instruments giving effect to the 2020 NPS-FM

[2] Through the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023, available here: Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 No 68 (as at 24 December 2024), Public Act Contents – New Zealand Legislation.

have not yet (for the most part) been notified and most are operating off planning instruments based on previous NPS-FM versions. For the purposes of this interim RIS, the status quo assumes regional councils will give effect to the 2020 NPS-FM, and options are being assessed against that baseline.

The 2020 NPS-FM was subject to a full public consultation process and a significant body of analysis and advice before being agreed by Cabinet in late 2020 – much of that analysis may still be relevant here, and while not duplicated, can be referred to in the RIS prepared at that time.[3] There remains, however, considerable uncertainty as to the nature of those status quo regional freshwater plans because national direction has not been stable enough, for long enough, to observe what the actual effects of NPS-FM implementation would be. Recent and concurrent legislative changes also add uncertainty, for example, the Fast-track Approvals Act came into effect in December 2024, and may provide for infrastructure and development projects to be granted that would be otherwise inconsistent with the NPS-FM and resulting freshwater plans.

Responsible Managers	
Nik Andic *Manager* *Freshwater* *Ministry for the Environment* 12 March 2025	*Claire McClintock* *Manager* *Water and Adaptive Farming Policy* *Ministry for Primary Industries* 12 March 2025

Quality Assurance (completed by QA panel)	
Reviewing Agency:	*Ministry for the Environment and Ministry for Primary Industries*
Panel Assessment & Comment:	*This Regulatory Impact Statement (RIS) has been assessed as partially meeting the quality assurance criteria. The RIS is well-written and provides a thorough analysis; however, significant uncertainties remain regarding the interaction with other policies, the broader impacts of RM reform, and future policy decisions. Additionally, the document is technical in places, which may present challenges for readers unfamiliar with the NPS-FM. Nevertheless, the RIS serves as a useful interim assessment of the policy options under consideration.*

[3] Available here: "Regulatory impact analysis, action for health waterways Part II: Detailed analysis".

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

Background

1. The Government has committed[4] to replacing the National Policy Statement for Freshwater Management (NPS-FM) 2020,[5] and to rebalance Te Mana o te Wai (TMoTW) to better reflect the interests of all water users. The Government wants to remove unnecessary cost, complexity and rigidity, while improving the health of freshwater for New Zealanders.

2. The work to replace the NPS-FM and related freshwater national direction (ie, the National Environmental Standards for Freshwater (NES-F) and the Resource Management (Stock Exclusion) Regulations 2020) has been split into several policy areas, which address other Government commitments.

3. This interim RIS looks at the overall commitment to replace the NPS-FM and addresses the core components of the NPS-FM, while other parts of the freshwater policy package focus on more specific policy matters such as water storage, vegetable growing, farmer facing regulations, wetlands, fish passage and river extent. These are all being progressed as one freshwater policy package, but policy development and regulatory impact analysis is split into these topic areas, and Regulatory Impact Statements (RISs) are being prepared for each policy area.

4. This interim RIS focusses on the following three issues, which address core components of the NPS-FM.

    a. Issue one: TMoTW provisions could be clearer and more certain about the meaning of the concept and how it operates.

    b. Issue two: The required pace, scale and cost for achieving freshwater improvement is unclear, and there is insufficient recognition of key government priorities within objectives and policies.

    c. Issue three: Limited ability for councils to take account of regional variation when setting environmental limits under the National Objectives Framework (NOF).

5. This freshwater package is progressing as part of Phase 2 of the Government's reform of the resource management (RM) system.[6] Phase 2 includes a programme of work to amend or develop national direction under the Resource Management Act 1991 (RMA).[7] This part of Phase 2 is aimed to be delivered by mid to late-2025.

[4] See the Coalition Agreement: New Zealand National Party and ACT New Zealand; and the Coalition Agreement: New Zealand National Party and New Zealand First.

[5] The 2020 NPS-FM is published on the Ministry for the Environment website here: https://environment.govt.nz/acts-and-regulations/national-policy-statements/national-policy-statement- freshwater-management/. This includes recent amendments and previous versions of the NPS-FM.

[6] More detail on the 3 phases of RM reform is available on the Ministry for the Environment's website here: Changes to resource management | Ministry for the Environment.

[7] Available here: Resource Management Act 1991 No 69 (as at 25 October 2024), Public Act Contents – New Zealand Legislation.

Legislative context

6. The RMA regulates the use and development of natural and physical resources of New Zealand. The purpose of the RMA is to promote the sustainable management of natural and physical resources. The management of freshwater resources is largely the responsibility of regional councils, and is achieved through objectives, policies, rules and other methods in regional policy statements and plans.

7. National policy statements state objectives and policies for matters of national significance that are relevant to achieving the purpose of the RMA. The RMA requires regional councils to give effect to national policy statements in their regional policy statements and plans. Consent authorities are also required to 'have regard to' any relevant provisions of a national policy statement when determining applications for resource consent.

The National Policy Statement for Freshwater Management

8. The NPS-FM is an important driver of freshwater management in New Zealand. Its purpose is to provide a nationally consistent framework for freshwater management while providing an appropriate level of regional flexibility. The first NPS-FM was made in 2011[8] to address declining quality and increasing over-allocation of freshwater (both in terms of water quantity and water quality).

9. The NPS-FM was replaced in 2014[9], amended in 2017, and replaced again in 2020. Further amendments were made in 2022, with minor amendments again in 2024.[10]

10. The 2020 NPS-FM has a single objective which directs natural and physical resources be managed in a way that prioritises:

    a. first, the health and well-being of water bodies and freshwater ecosystems

    b. second, the health needs of people (such as drinking water)

    c. third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

11. Key policy directives in the 2020 version of NPS-FM are for regional councils to:

    a. give effect to TMoTW (discussed below)

    b. set long term visions for freshwater resources

    c. maintain or improve water quality

    d. avoid further over-allocation and phase out existing over-allocation

    e. set environmental outcomes for national values (eg, ecosystem health) and limits on resource use to achieve those outcomes, using the National Objectives Framework (NOF) process (discussed below).

[8] Available here: National Policy Statement for Freshwater Management 2011 | Ministry for the Environment.

[9] In 2014, the national objective framework was introduced as a way to help regional councils apply the requirements of the NPS-FM in a consistent way across the country.

[10] More detail on the history the NPS-FM is available here: History of the National Policy Statement for Freshwater Management | Ministry for the Environment. And the various iterations, as well as the current version, are available here: National Policy Statement for Freshwater Management | Ministry for the Environment.

12. Regional councils are required to notify freshwater plans, giving effect to the 2020 NPS-FM, by 31 December 2027,[11] but cannot notify their freshwater plan before the earlier of a new NPS-FM being published, or 31 December 2025.[12] These timelines were put place to avoid duplication of effort and enable a replacement NPS-FM to be put in place before councils notify their plans.

Te Mana o te Wai

Context

13. The NPS-FM includes the concept of TMoTW[13] that refers to the fundamental importance of freshwater and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. TMoTW has been part of the NPS-FM since 2014 and was strengthened in 2017 and 2020.

14. The definition of TMoTW within the NPS-FM has three components that comprise an explanation of the concept, six principles (mana whakahaere, kaitiakitanga, manaakitanga, governance, stewardship, and care and respect) and the same hierarchy of obligations as the single objective (set out above).

15. Managing freshwater in a way that gives effect to TMoTW is a key directive of the NPS- FM.[14] Implementation steps that regional councils must follow in doing so are specified.[15] Among other things, regional councils must work with communities and tangata whenua to determine how TMoTW applies to waterbodies locally.

16. The greater focus on TMoTW and the hierarchy of obligations within the 2020 NPS-FM was intended to shift decision-making from a more balanced approach under previous versions to one that prioritises the health and well-being of freshwater and ecosystems.

Te Mana o te Wai and Māori freshwater rights and interests

17. The Crown acknowledged that Māori have rights and interest in freshwater and geothermal resources in the High Court in 2012 and committed to progressing this acknowledgment. This was subsequently recorded in the Supreme Court in 2013.[16] While there are a range of ways that the dimensions of rights and interests have been articulated by Māori, improving water quality and the health of ecosystems and waterways has consistently been identified as the most important issue.

18. The initial inclusion of Te Mana o te Wai in the 2014 NPS-FM and its further development (in 2017 and 2020) followed extensive engagement with Māori. This occurred in the context of the Crown commitments on Māori freshwater rights and interests.

[11] Councils were previously working towards a 31 December 2024 deadline, but this was extended by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast- track Consenting) Act 2023.

[12] Amended by section 21 of the Resource Management (Freshwater and Other Matters) Amendment Act 2024.

[13] Clause 1.3 of the NPS-FM 2020.

[14] Policy 1 of the NPS-FM 2020.

[15] Clause 3.2 of the NPS-FM 2020.

[16] See New Zealand Māori Council v Attorney General [2013] NZSC 6, [2013] 3 NZLR 31 at [145].

19. The TMoTW provisions in the 2020 NPS-FM (particularly the hierarchy of obligations) addressed in part recommendations from the Waitangi Tribunal in 2019 to give stronger recognition of Māori values in the NPS-FM.[17] A range of iwi and Māori groups have indicated that they consider this has contributed to progressing Crown commitments on Māori freshwater rights and interests.[18]

National Objectives Framework

20. The National Objectives Framework (NOF)[19] provides a structured and consistent approach for setting environmental outcomes under the NPS-FM (**Appendix A**). The NOF has been part of the NPS-FM since 2014 and has been revised in 2017 and 2020, each time providing more specificity and prescription to the process, while still aiming to provide an appropriate level of flexibility.

21. The NOF process sets out requirements for regional councils, in consultation with communities and tangata whenua, to develop a long-term vision and identify the values communities want to provide for; then monitor and set targets using attributes,[20] and achieving targets by limiting resource use (ie, through rules in plans) and/or implementing action plans (which can include funding and non-regulatory actions).

22. There are no set timeframes for when targets must be achieved.[21] This is a choice for councils along with communities and tangata whenua. The NPS-FM includes direction that timeframes must be ambitious but reasonable.[22] Interim targets that track towards achieving the end goal for improvements to freshwater must also be set at 10 yearly intervals.[23]

How is the status quo expected to develop if no action is taken?

23. Regional councils must develop freshwater planning instruments (noting the timing in para 12). Without any change, councils will develop those instruments based on the current NPS-FM (ie, the 2020 NPS-FM).

24. Councils have already undertaken a large amount of work to notify plans under the 2020 NPS-FM (as they were working towards notifying by the previous deadline on 31 December 2024).

25. Stakeholder feedback has indicated that the 2020 NPS-FM is complex and lacks flexibility to account for regional variation. There is also concern from the primary sector that it is not possible to meet water quality bottom lines within the timeframes anticipated to be set and "trying to meet them will decimate farming

[17] Waitangi Tribunal The Stage 1 Report on the National Freshwater and Geothermal Resources Claims (Wai 2358, 2012), and Waitangi Tribunal The Stage 2 Report on the National Freshwater and Geothermal Resources Claims (Wai 2358, 2019).

[18] Through engagement in this process and through submissions on changes that excluded the hierarchy of obligations from resource consenting under the Resource Management (Freshwater and Other Matters) Amendment Act.

[19] Part 3, Subpart 2 of the NPS-FM 2020.

[20] Measurable characteristics such as nitrogen that provide for values. There is a requirement that water quality must be maintained or improved over time.

[21] Clause 3.11 of the NPS-FM 2020.

[22] Clause 3.3 of the NPS-FM 2020.

[23] Clause 3.11 of the NPS-FM 2020.

and rural communities".[24]

26. In 2023, Our Land and Water, a National Science Challenge programme, found it would be extremely challenging to achieve New Zealand's water quality goals.[25] The report noted that:
    - substantial reductions of at least one contaminant would be required in almost all regions
    - meeting community expectations for water quality in some areas may be incompatible with current land use and intensity
    - moving towards the currently defined national bottom lines was identified as the best option to improve ecosystem health and swimmability.

27. There is evidence that actual costs of implementing the NPS-FM may be higher than originally forecast. In some cases, this reflects the aspirational targets being set by communities, rather than simply meeting the national bottom lines. For example, Greater Wellington Regional Council estimates it will cost $3.5 billion to meet the agreed[26] target attribute states for *E. coli* in 3 urban water catchments, with the bulk of costs relating to wastewater upgrades.[27] If the upgrades were funded by annual rates, it would require a sustained 12 - 37% increase to rate payers to undertake the upgrades over a 20-year period.

28. The cost for councils to implement the NPS-FM is difficult to quantify. Councils do not typically attribute costs associated with implementing the NPS-FM in a way that can be easily tallied and summarised. A July 2024 report from the New Zealand Institute of Economic Research estimated a combined spend of about $35M per year on NPS-FM implementation for the councils that provided information. The spend covered 71.5% of the regional and unitary council sector. This actual spend figure is substantially less than the $210M of annual administrative costs estimated for the Essential Freshwater Package by Castalia in 2020,[28] for all councils combined. The Castalia report noted that the costs would increase over time until notification and full implementation. Despite the uncertainty, the evidence suggests that councils will struggle to fund additional implementation costs associated with the NPS-FM, even though rates have been steadily increasing.[29]

29. Additional costs associated with the implementation of freshwater policy has occurred alongside capital cost escalation and other inflationary forcings. For example, since 2020, bridges are 38% more expensive to build, sewerage is 30% more, and roads and water supply systems are 27% more.[30]

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[24] As reported by Beef and Lamb in a technical report prepared by Torlesse "Technical assessment of the impacts of the NPS-FM 2020 national bottom lines on sheep and beef farms". And Beef & Lamb NZ's comments on the report are here: "Independent review highlights fundamental flaws in key freshwater targets".

[25] Research Findings Brief: Current state of water contaminants compared to bottom lines, Our Land and Water (Toitū te Whenua, Toiora te Wai) National Science Challenge 2023, available here: "Current state of water contaminants compared to bottom lines"

[26] As determined via community engagement during the whaitua process.

[27] "Wastewater improvement affordability: Implications of implementation timeframes for affordability".

[28] "Administrative Costs of Proposed Essential Freshwater Package on Regional Councils"

[29] For example, local government rates (not regional councils specifically) rose 9.8% on average in 2023, the highest increase in 20 years. Analysing increases in local government costs. Farmer's weekly reported an average increase across regional councils of 16.2% in 2024-25, 12.4% in 2023-24 and 11.5% in 2022-23. "Analysing regional rates increase trends".

[30] "Analysing increases in local government costs for Local Government New Zealand: February 2024".

What is the policy problem or opportunity?

30. The Government is concerned that the NPS-FM has become too complex to implement, lacks flexibility, and has the potential to impede other key outcomes that are important to New Zealanders from being achieved (such as housing, infrastructure and wider priorities for the primary sector).

31. The Government is also concerned that TMoTW (the fundamental concept that underpins the 2020 NPS-FM) is not correctly balanced and lacks clarity as to how it is intended to operate.

32. This has led to the Government committing to replacing the NPS-FM (including more flexibility for councils in how they set environmental limits) and to rebalance TMoTW to better reflect the interests of all water users.

33. This interim RIS focusses on the following three issues within the scope of these commitments, which address core components of the NPS-FM.

Issue one: Te Mana o te Wai

34. The TMoTW provisions could be clearer and more certain about the meaning of the concept and how it is intended to operate within the NPS-FM. Specific issues that have been identified with the provisions include:

- whether the first tier of the hierarchy of obligations sets an environmental bottom line that must be achieved *before* other tiers of the hierarchy can be provided for
- whether the concept explicitly recognises that improvements to freshwater can be progressive and occur over any length of time as agreed between communities and tangata whenua (where freshwater is degraded or communities choose to improve freshwater)
- the 'give effect to' obligation for TMoTW specified within the NPS-FM could be perceived as TMoTW having greater weighting relative to other NPS-FM provisions
- whether the process steps listed within the NPS-FM for giving effect to TMoTW are exhaustive, or whether councils may be required to undertake further undefined steps
- TMoTW provisions can be interpreted as applying to resource consenting *before* councils have determined how TMoTW applies locally.

TMoTW hierarchy of obligations

35. Applying the hierarchy of obligations to specified decision-making processes within the NPS-FM (eg, setting of limits and targets) forms part of implementing the NOF. The first tier of the hierarchy (ie, prioritising the health and well-being of freshwater bodies) is not intended to impose an environmental bottom line that must be met *before* the second and third tiers can be provided for.

36. Potential interpretative issues with the hierarchy of obligations have previously been identified by the Ministry for the Environment and the Independent Advisory Panel appointed by the Minister for the Environment during the development of the 2020 NPS-FM. These interpretative issues were addressed at the time by specifying the matters within the NPS-FM that the hierarchy applies to. However,

ambiguity with the drafting of the hierarchy was not fully resolved.

TMoTW and improvements to water quality

37. The NPS-FM directs freshwater to be improved where it is degraded (ie, where it is below a national bottom line) or maintained where it is not.[31] Where water is not degraded, communities may still choose to improve water quality. Timeframes for improving water quality can be of any length,[32] and these are determined by communities and tangata whenua. The NPS-FM is clear that councils are responsible for timeframes for achieving target attribute states.

38. These choices are not explicitly acknowledged in the concept of TMoTW. This has the potential to lead to uncertainty when TMoTW is given effect to in regional policy statements and plans.

Giving effect to TMoTW and process steps for doing so

39. The NPS-FM directs freshwater to be managed in a way that gives effect to TMoTW.[33] This applies in addition to the requirement under the RMA for regional policy statements and plans to give effect to a national policy statement.[34]

40. During the development of the 2020 NPS-FM, the Ministry for the Environment was initially of that view that a specific give effect to obligation for TMoTW could increase risks and costs to councils in cases where communities and tangata whenua are concerned that TMoTW has not been given effect to. The Ministry for the Environment also considered that such wording could create a perception that TMoTW has greater weighting within the NPS-FM relative to other provisions.

41. Further policy development resulted in the inclusion of a give effect to obligation on the basis that the NPS-FM would include clear direction for councils on what is required to do so. This resulted in process steps for TMoTW being included, but these can be interpreted that further undefined steps may be required. This has the potential to create uncertainty in council planning processes.

42. The replacement NPS-FM is proposed to contain multiple objectives (see Issue two) that must all be given effect to by regional councils in their policy statements and plans. A specific give effect to obligation within the NPS-FM for TMoTW could conflict with those outcomes if it is interpreted that TMoTW has greater weighting.

TMoTW provisions can be interpreted as applying to resource consenting

43. The primary purpose of the TMoTW provisions is to inform content in regional policy statements and plans. This is demonstrated by:

    - a requirement for regional policy statements and plans to 'give effect to'[35] a national policy statement under the RMA[36]
    - the NPS-FM containing process steps for TMoTW[37] that councils must follow

[31] Policy 5 of the NPS-FM 2020 and section 30 of the RMA.

[32] Clause 3.11(6) of the NPS-FM 2020.

[33] Policy 1 of the NPS-FM 2020.

[34] Section 62(3) of the RMA for a regional policy statement and section 67(3) of the RMA for a regional plan.

[35] Which in practice means 'implement'.

[36] Section 62(3) of the RMA for a regional policy statement and section 67(3)(a) of the RMA for a regional plan

[37] Clause 3.2 of the NPS-FM 2020.

in giving effect to the NPS-FM. There is a specific requirement for councils to engage with communities and tangata whenua to determine how TMoTW applies to water bodies within a region.[38]

44. National policy statements also apply to resource consenting. Resource consent applicants must assess,[39] and consent authorities must have regard to,[40] any relevant provisions of a national policy statement.

45. Some TMoTW provisions[41] can be interpreted as being relevant considerations in resource consenting. This is because those provisions are silent on what they apply to.[42]

46. This has created some challenges for consent applicants in circumstances where regional policy statements and plans have not yet given effect to the NPS-FM, and how TMoTW applies locally not determined by councils. This has been partly addressed by the Government excluding the hierarchy of obligations in TMoTW from resource consenting under the RMA via the Resource Management (Freshwater and Other Matters) Amendment Act 2024.

Issue two: The required pace, scale and cost for achieving freshwater improvement is unclear, and there is insufficient recognition of key government priorities within objectives and policies

47. There is a common misconception that under the NPS-FM, water quality and bottom lines must be achieved right away, and that pristine water quality is what must be achieved. A timeframe by which targets (environmental limits) must be met has never been specified by the NPS-FM. Long timeframes for changing degraded water quality trends have always been seen as appropriate and can be established at the discretion of councils, along with communities and affected sectors.

48. There is also no recognition in the objectives and policies of the NPS-FM for current government priorities, meaning without specific recognition, the NPS-FM may impede those key outcomes (such as vegetable growing or water storage).

49. Without any change to the NPS-FM, councils may develop freshwater planning instruments that do not balance the key outcomes that are important to New Zealanders, and that do not recognise the costs associated with achieving outcomes. They may set environmental limits and targets that require change to occur too fast, and not account for where the costs lie to make those changes in those timeframes.

50. Public consultation will provide further information on the extent to which this is problematic across different regions.

Issue three: Limited ability for councils to take account of regional variation or

[38] Clause 3.2(1) of the NPS-FM 2020.

[39] Schedule 4, clause 2(1)(g) of the RMA.

[40] Section 104(1)(b)(iii) of the RMA.

[41] Policy 1 and the fundamental concept at clause 1.3 of the NPS-FM 2020.

[42] In the 2017 NPS-FM, the TMoTW provisions were drafted more deliberately to state that TMoTW was to be implemented by regional councils making or changing their regional policy statements and plans. In practice, this likely meant that the provisions were not deemed 'relevant' considerations in resource consenting.

scientific progress when setting environmental limits under the National Objectives Framework (NOF)

51. The National Objectives Framework (NOF) provides a national level framework for councils to follow in setting environmental limits and targets to achieve freshwater outcomes.

52. The elements of the NOF that can limit councils in what they can do include:

    a. Take account of regional variation where it may be appropriate to do so. For example, natural levels of sediment in a region could mean the thresholds[43] (including national bottom lines) and monitoring methods[44] in the attribute tables[45] are inappropriate, and yet councils are bound by the methods and obliged to undertake community consultation with the numbers presented in the attribute tables. Similarly, spatial patterns of latitude and elevation differ by region, and these factors have a strong influence on macroinvertebrate communities which may reduce the relevance of default thresholds provided in the macroinvertebrate attributes.
    b. Accommodate variation in the relationship between stressor-type attributes (eg, nutrients or sediment) and outcome-type attributes that are more direct indicators of ecosystem health (eg, fish or macroinvertebrates). For example, water hardness influences the toxicity effect of nitrate,[46] and regions may exhibit differences in their water hardness due to underlying differences in geology and hydrology.[47]
    c. Adopt new methods or change their approach to better reflect the latest scientific understanding. For example, since the macroinvertebrate attribute was introduced in 2020 with its prescribed monitoring method, a different method for monitoring macroinvertebrates has become the recommended national standard.[48] Similarly, rapid advances in technology have now made Environmental DNA (eDNA) a feasible and cost-effective method for monitoring a broad range of ecosystem health components including fish and macroinvertebrates.[49] Approaches for monitoring and reporting on the suitability of recreation (swimming) have also advanced, and some councils'[50] preferred approach no longer reflects what is directed in the NPS-FM.

53. The current NPS-FM does acknowledge natural variability to some extent. Target attribute states can be set above national bottom lines if naturally occurring processes make the bottom lines unachievable (Clause 3.32). We have heard, however, that councils have struggled to use clause 3.32 to navigate issues of inherent natural variability with communities, especially in situations where targets better than bottom lines are being sought by those communities.

54. Without any change to the NPS-FM, councils may set targets (environmental

[43] The numeric ranges describing the state of the attribute.

[44] Methods for monitoring the attribute.

[45] Appendices 2A and 2B in the NPS-FM 2020.

[46] "Toxicant default guideline values for aquatic ecosystem protection: Nitrate in freshwater".

[47] "Statement of rebuttal evidence of Chistopher Wayne Hickey".

[48] "National Environmental Monitoring Standards: Macroinvertebrates" .

[49] "eDNA Guidelines and field protocols for lotic systems".

[50] For example, Auckland "Safeswim"

limits) that are unrealistic or unnecessary for their region or catchments, or continue using historic indicators or methods despite better advances in science providing more accurate or more efficient approaches.

55. Public consultation will provide further information on the extent to which this is problematic across different regions.

What objectives are sought in relation to the policy problem?

56. The objectives sought in relation to the specific proposals in this interim RIS are to:

Issue one:

a. 'rebalance Te Mana o te Wai to better reflect the interests of all water users' consistent with the National Party/ACT New Zealand and National Party/New Zealand First Coalition Agreements)
b. provide greater clarity about the meaning of TMoTW and how it operates.

Issues two and three:

a. simplify the NPS-FM to remove unnecessary costs, complexity and rigidity
b. provide more flexibility for local decision-making at a regional and catchment scale
c. provide for Government priorities (eg, commercial fruit and vegetable growing)
d. safeguard the environment and improve the health of freshwater for all New Zealanders
e. have an enduring freshwater management system.

Section 2: Deciding upon an option to address the policy problem

What criteria will be used to compare options to the status quo?

Criteria	Approach for the analysis
Effectiveness	• The option contributes to the understanding of hazards and risks to source waters (by councils, water supplier, resource user, public). • The likelihood the option will reduce contamination of the source water that is high-risk to human health. • Option improves the likelihood of compliance with the DWSNZ by reducing the reliance on treatment.
Efficiency	• Is it providing enough flexibility to allow local circumstances to be adequately taken into account/addressed at the local level? • Is it cost-effective in so far as it ensures better management of the risks that some land use activities pose to the drinking water safety, while doing so at the least possible cost?
Alignment	• Does the option integrate well with other proposals and the wider statutory framework?
Implementation	• The option is clear and leaves little room for interpretation. In cases where flexibility is allowed, there are clear parameters guiding a decision when not to apply default methods. • The ease of implementation. • Sufficient resources are available for implementation of the option in a timely way.
Treaty of Waitangi	• Iwi, hapū, whānau Māori can exercise rangatiratanga and make decisions over their respective resources and taonga which they wish to retain. • The degree the options provide protection for drinking water managed by and for iwi, hapū and whanau Māori under the principles of kawanatanga, active protection and equity.

What scope will options be considered within?

57. Cabinet agreed for the 2017 version of the NPS-FM to be used as the starting point for targeted engagement with Māori and key stakeholders, and that adjustments in the following areas be explored [CAB-24-MIN-0413.01]:

    a. Te Mana o te Wai provisions (including how it operates)

    b. additional objectives and policies to address Government priorities, while recognising and emphasising the need for local decision-making

    c. provisions from the NPS-FM that improve clarity, are enduring, and assist implementation (including values and attributes).

58. We have also identified the following areas where changes could be made to achieve the objectives:

a. improving water quality (clarifying the timeframes for achieving targets)

b. the number of compulsory values and attributes within the NOF (providing flexibility and choices in how values and attributes are applied and met).

59. Ministers have directed that a broad range of options be consulted on. On account of this Cabinet and Ministerial direction, the options considered in this interim RIS are based on looking at elements of the 2017 and 2020 versions of the NPS-FM.

60. The scope of options identified has been informed by key differences between the 2017 and 2020 versions of the NPS-FM in these areas[51] (see **Appendix B**), feedback received during targeted engagement, and the Government's objectives for reforming the RM system (outlined below).

61. The proposals in this interim RIS are part of phase two of the Government's reform of the RM system, which is guided by the following objectives [ECO-24-MIN-0022 refers]:

Making it easier to get things done by:

- unlocking development capacity for housing and business growth
- enabling delivery of high-quality infrastructure for the future, including doubling renewable energy
- enabling primary sector growth and development (including aquaculture, forestry, pastoral, horticulture, and mining)

while also:

- safeguarding the environment and human health
- adapting to the effects of climate change and reducing the risks from natural hazards
- improving regulatory quality in the resource management system
- upholding Treaty of Waitangi settlements and other related arrangements.

Feedback received during targeted engagement

62. Targeted engagement on high level policy proposals was undertaken in November 2024 to February 2025, with iwi/Māori, local government, primary sector stakeholders and environmental non-governmental organisations (ENGOs). A summary of written and verbal feedback received is provided below.

Issue one: Te Mana o te Wai

Iwi/Māori

63. Iwi/Māori are generally opposed to proposals that seek to rebalance TMoTW and lessen its influence as a framework for freshwater management within the NPS-FM. A key consistent overall theme throughout engagement was that the Government commitment to rebalance TMoTW is predicated on a misunderstanding of the concept and its role within the NPS-FM.

64. Iwi/Māori generally expressed that TMoTW as a concept is already balanced as it

[51] While many policies are common to both the 2017 and 2020 NPS-FM, these were substantially redrafted to provide additional clarity and consistency with other amendments (eg, the definition of ecosystem health, requirements to assess and report on progress, etc).

includes consideration of environmental, social, economic and cultural matters. Iwi/Māori consider that the focus for TMoTW within the review and replacement of the NPS-FM should be on supporting local government and other stakeholders implement the concept.

Local government

65. Local government indicated support for TMoTW being retained as a concept within the replacement NPS-FM. They support amendments that would reduce prescription and provide more clarity about its meaning and how it operates to support implementation.

Primary sector

66. Primary sector stakeholders generally support TMoTW as concept, but expressed concern about the hierarchy of obligations as the single objective in the NPS-FM. This is viewed as being problematic, costly and complex to implement.

ENGOs

67. ENGOs expressed support for TMoTW to be retained in its current form. There was concern that removing or 'rebalancing' obligations in TMoTW would result in weakening environmental protections and general catchment health.

Issues two and three:

Iwi/Māori

68. We heard from Iwi/Māori there was support for keeping objectives from the 2020 NPS- FM. Māori are concerned that removing or rebalancing objectives in the NPS-FM may have negative effects on water body health and the 2017 NPS-FM was noted to not have improved environmental outcomes on the ground. There was also support for keeping the NPS-FM accessible and workable to allow iwi to be better involved and empowered in its implementation, as well as for there to be flexibility for local councils to implement policy.

Local government

69. We heard from regional council representatives a preference for an NPS-FM with a single objective, as having multiple objectives can cause uncertainty, and make decision-making more complex. They have indicated support for Te Mana o Te Wai being retained as a concept within the NPS-FM, but with less prescriptive implementation steps than 2020. They would like greater flexibility in the way that attributes are applied. They have expressed that all versions of the NPS-FM have been clear that timeframes of any length can be set to achieve water quality targets. There was also support for more regional flexibility and less prescriptive national direction.

Primary sector

70. We heard a need for enduring, rather than constantly changing policy from the primary sector. Alignment of NPS-FM objectives with the purpose of the primary legislation was also a common theme. It was suggested that primary legislation be drafted first, so that objectives would align with the replacement RMA.

71. Objectives that are clear, achievable and balance social, economic and

environmental considerations were generally supported. There was support for objectives and policies to be explicit, so that everyone understands them (that is, clear and consistent interpretation and implementation). Specific guidance on timeframes was requested, as is the spatial scale for the policy (for example, at catchment level). Some industries also advocated for recognising the importance of food production, human health and community well-being in the NPS-FM.

72. There were mixed views on the policy to maintain or improve water quality. There was support to maintain water quality, and recognition that in some cases improvement and change is needed.

73. Overall, we did not hear a strong appetite for large changes to attributes and values, but rather a consistent call to allow councils more flexibility in how they apply them to each catchment. There was also concern expressed about the degree to which some councils are setting targets that are stricter than national direction.

ENGOs

74. ENGOs supported maintaining the 2020 NPS-FM and were concerned that using the 2017 NPS-FM as a starting point for the new NPS-FM would weaken freshwater protection. There is strong support for freshwater health being retained as the primary objective in the NPS-FM.

How has feedback influenced the policy proposals?

75. The limited feedback received through targeted engagement has helped to inform our understanding of the nature and scope of the policy problems and our assessment of which options are likely to achieve the policy objectives. Specific feedback that has influenced policy proposals is outlined in the description of the options below.

76. Public consultation will allow for more detailed feedback and will ensure that stakeholder and iwi/Māori views are reflected in the development of policy options and recommendations in the final RIS.

What options are being considered?

Issue one: Te Mana o te Wai

77. Five options were considered alongside the status quo. A description of the options is provided below.

78. Options one, two, and three were discussed with advisors from Te Tai Kaha and Pou Taiao during targeted engagement. They intend to provide their views in writing when they have reviewed the final set of policy proposals for the entire review and replacement of the NPS-FM.

Status quo: 2020 NPS-FM TMoTW provisions

79. Features of the status quo include:

    a. Structure: TMoTW is articulated as the fundamental concept of the NPS-FM, with its hierarchy of obligations contained in the single objective

    b. Definition: TMoTW is defined as including an explanation of the concept,

six principles (mana whakahaere, kaitiakitanga, manaakitanga, governance, stewardship, and care and respect), and a hierarchy of obligations

c. Obligation: Regional councils must manage freshwater in a way that that 'gives effect to' TMoTW

d. Process: Steps are included that councils must follow in giving effect to TMoTW These focus on councils engaging with communities and tangata whenua to determine how TMoTW applies locally, and active involvement in freshwater management (including in decision-making processes).

e. Application: TMoTW applies to the development of regional policy statements and plans, and resource consenting in a reduced capacity. The hierarchy of obligations is excluded from resource consenting under the RMA.[52]

Option one: Reinstate the 2017 NPS-FM TMoTW provisions

80. Option one would reinstate the 2017 NPS-FM TMoTW provisions into the replacement NPS-FM.

81. Features of this option include:

a. Structure: TMoTW would be one of multiple objectives in the NPS-FM that need to be given effect to by regional councils in their regional policy statements and plans

b. Definition: TMoTW would not be defined or include an explicit hierarchy of obligations. The NPS-FM would include a statement on the national significance of freshwater and TMoTW, which recognises that 'in using water you must also provide for Te Hauora o te Taiao (the health of the environment), Te Hauora o te Wai (the health of the waterbody) and Te Hauora o te Tangata (the health of the people)'. This text is considered the precursor to the explicit hierarchy of obligations contained under the status quo

c. Obligation: Regional councils would be required to 'consider and recognise' TMoTW in the management of freshwater

d. Process: Process steps for how TMoTW is to be 'considered and recognised' in freshwater management would not be specified

e. Application: TMoTW applies to the development of regional policy statements and plans.[53]

Option two: Retain the three components of the 2020 NPS-FM TMoTW concept with amendments to provide more clarity and certainty about its meaning and how it operates

82. Option two would retain the three components of 2020 NPS-FM TMoTW concept in the replacement NPS-FM with amendments for clarity and certainty.

83. Features of this option include:

[52] RMA s104(2F), as amended under the Resource Management (Freshwater and Other Matters) Amendment Act 2024.
[53] Policy AA1 directed that TMoTW was to be' considered recognised' by regional councils in regional policy statements and plans. In practice, this likely meant that the TMoTW provisions were not a relevant consideration in resource consenting under the RMA

a. Structure: TMoTW would be positioned as a concept that sits separately from the objectives as part of the overall framework for freshwater management. This is in addition to replacing the single objective of the current NPS-FM that contains the TMoTW hierarchy of obligations with multiple objectives that must be given effect to by regional councils (discussed under Issue two)

b. Definition: The components of the 2020 NPS-FM definition (status quo) would be retained with targeted amendments. It would be explicit within the concept that if freshwater is degraded, or communities choose to improve freshwater, TMoTW (including the hierarchy of obligations) provides for *progressive improvements over time (as agreed by communities and tangata whenua)*

c. Obligation: There would be no obligation specified within the NPS-FM for TMoTW (eg, 'give effect to' under the status quo, or 'consider and recognise' under Option one). Councils would be required to give effect to TMoTW as part of giving effect to the NPS-FM as a whole.[54] This would be made explicit in drafting for the avoidance of doubt

d. Process: Steps that councils must follow to give effect to TMoTW as part of giving effect to the NPS-FM as a whole would be included. The process steps would focus on councils engaging with communities and tangata whenua to determine how TMoTW applies locally, and active involvement in freshwater management (including in decision-making processes), similar to the status quo

e. Application: The NPS-FM would state that TMoTW provisions are not relevant considerations in resource consenting.

Option three: Retain the three components of the 2020 NPS-FM TMoTW concept with amendments as per Option two, and replace the hierarchy of obligations

84. Option three is the same as Option two except that in place of the explicit hierarchy of obligations in the definition, the 2017 NPS-FM wording (which was the precursor to the hierarchy in the 2020 NPS-FM) would be included, ie, TMoTW 'requires that in using water you must also provide for Te Hauora o te Taiao (the health of the environment), Te Hauora o te Wai (the health of the waterbody) and Te Hauora o te Tangata (the health of the people)'.

Option four: Option two, plus remove the hierarchy of obligations

85. Option four is the same as Option two except that the hierarchy of obligations would be removed from the definition of TMoTW.

Option five: Remove TMoTW provisions entirely

86. Option five would remove TMoTW provisions entirely from the NPS-FM.

[54] RMA section 62(3) for a regional policy statement and section 67(3)(a) for a regional plan

How do the options compare to the status quo/ counterfactual?

	Status quo 2020 NPS-FM TMoTW provisions	Option one – Reinstate the 2017 NPS-FM TMoTW provisions	Option two – Retain the three components of the 2020 NPS-FM concept with amendments to provide clarity about its meaning and how it operates	Option three – Option two, plus replace the hierarchy of obligations	Option four – Option two, plus remove the hierarchy of obligations	Option five – Remove TMoTW provisions entirely
Effectiveness	0	- Rebalances TMoTW as it was one of multiple objectives that must be given effect to by regional councils in their policy statements and plans. The obligation imposed on councils is also weaker (ie, 'consider and recognise' vs 'give effect to'). There would also be no hierarchy of obligations. Does not provide greater certainty as the 2017 NPS-FM provisions do not define TMoTW, and process steps for implementation are not included. This led to uncertainty in council planning processes. The 2017 NPS-FM provisions specify that they apply to regional policy statements and plans (ie, they are not relevant considerations in resource consenting). This has the potential to adversely affect freshwater quality until regional policy statements and plans that give effect to the replacement NPS-FM and new TMoTW provisions are in place. However, this is both uncertain and difficult to assess for a number of reasons as other key RMA requirements and NPS-FM directives would continue to apply to consenting, including (but not limited to): • policy direction to maintain or improve water quality and to avoid further over-allocation • consideration of adverse effects under section 104(1)(a) The hierarchy of obligations is also excluded from resource consenting under the RMA, meaning the influence of TMoTW in resource consenting under the status quo is already limited. The combination of multiple objectives and absence of a hierarchy of obligations may weaken the overall influence TMoTW has on freshwater management as a concept within the NPS-FM.	+ Rebalances TMoTW as it would be positioned as a concept that sits separately from the objectives of the NPS-FM as part of the overall framework for freshwater management. This is in addition to replacing the single objective of the NPS-FM that contains the TMoTW hierarchy of obligations with multiple objectives that must be given effect to by regional councils (discussed under Issue two). This also rebalances TMoTW as multiple objectives will allow broader scope for councils to balance competing matters in decision-making. Includes targeted amendments to the concept for clarity and certainty that improvements to freshwater (if degraded, or if communities choose to improve freshwater) can be progressive over time. There would be no obligation for TMoTW specified within the NPS-FM (eg, give effect to). TMoTW would be given effect to by councils as part of giving effect to the NPS- FM as a whole through specified process steps. The TMoTW provisions would be drafted such that they are not relevant considerations in resource consenting. This has the same potential implications for freshwater quality as Option one. The multiple objectives may weaken the overall influence TMoTW has on freshwater management as a concept within the NPS- FM.	- Rebalances TMoTW as per Option two and an explicit hierarchy of obligations would not feature in the replacement NPS-FM. This would address the interpretative issues identified. However, would remove an element from the NPS-FM that has been regarded as contributing to progressing Crown assurances recorded in the Courts on Māori freshwater rights and interests. The combination of multiple objectives and absence of a hierarchy of obligations may weaken the overall influence TMoTW has on freshwater management as a concept within the NPS-FM.	- Rebalances TMoTW as per Option two and addresses issues identified with the hierarchy as it would not feature in the replacement NPS- FM. However, would remove an element from the NPS-FM that has been regarded as contributing to progressing Crown assurances recorded in the Courts on Māori freshwater rights and interests. The combination of multiple objectives and absence of a hierarchy of obligations may weaken the overall influence TMoTW has on freshwater management as a concept within the NPS-FM.	- - Removes TMoTW and addresses all identified issues with a lack of clarity. However, would remove from the NPS-FM a framework that has been regarded as contributing to progressing Crown assurances on Māori freshwater rights and interests. Given the history of the development of TMoTW in the NPS-FM working with Māori, its removal could affect the durability of the new NPS-FM. TMoTW as a concept would have no influence on freshwater management within the NPS-FM as it would not feature.
Efficiency	0	+ Provides flexibility for local circumstances to be applied as councils would determine how to 'consider and recognise' TMoTW in their planning processes. Is cost effective to the extent that some regional policy statements and plans have already given effect to the 2017 NPS-FM provisions.	+ Provides flexibility for local circumstances to be applied as the NPS-FM would specify that councils must engage with communities and tangata whenua to determine how TMoTW applies locally. The only material change relative to the status quo is TMoTW not applying to resource consenting. The remaining changes are clarificatory in nature. It is cost effective to the extent that some regional policy statement and plans already give effect to the 2020 NPS-FM provisions, and there is already some understanding of these. The changes made for clarity and certainty under this option are expected to reduce implementation costs.	+ The removal of the explicit hierarchy of obligations under option three may provide further flexibility for local circumstances to be applied.	- May provide further flexibility for local circumstances to be applied. Applying TMoTW without the hierarchy could be uncertain and lead to inefficiencies in planning processes (see implementation criterion below).	+ May provide additional flexibility for local circumstances to be applied.

Alignment	0	- TMoTW would be integrated into the replacement NPS-FM as one of multiple objectives that councils would be required to give effect to in their policy statements and plans. This aligns with the proposal to return to an NPS-FM with multiple objectives (discussed under Issue two). However, process steps to give effect to TMoTW would not be included. This does not algin with the wider review and replacement of the NPS-FM as other objectives are accompanied by process steps for implementation. TMoTW provisions sit within the wider architecture of the replacement NPS-FM which requires environmental limits (targets) to be set for a range of freshwater attributes, and the setting of limits on resource use to achieve those targets. This is consistent with the RMA. In addition, environmental limits are expected to feature in the Government's new legislation to replace the RMA.	+ TMoTW would be integrated into the replacement NPS-FM as a defined concept that sits separately from the objectives implemented through process steps. This aligns with other proposals that form part of the review and replacement of the NPS-FM. Similar to Option one, this option aligns with the wider statutory framework, particularly with regard to environmental limits.	+ As per Option two.	+ As per Option two.	- Further information about how this option aligns with the wider RM system will come following public consultation.
Implementation	0	- - The 2017 NPS-FM TMoTW provisions are not clear about what is required for implementation as TMoTW is not defined, and process steps for implementation are not included. Local government and other stakeholders have previously indicated that these provisions are unclear, which created uncertainty in planning processes. These issues were deliberately addressed in the 2020 NPS-FM.	+ TMoTW would be defined with targeted amendments for clarity, and implemented through process steps that councils must follow in giving effect to the NPS-FM as a whole. It would also be clear that TMoTW is not a relevant consideration in resource consenting. This provides certainty to local government and other stakeholders about the meaning of TMoTW, how it operates, and what it applies to.	+ As per option two	- Applying TMoTW as a concept without the hierarchy could be uncertain.	+ There would be no TMoTW provisions to implement.
Treaty of Waitangi	0	The Treaty Impact Analysis only assesses the preferred option.	Refer to the Interim Treaty impact analysis (**Appendix C**).	The Treaty Impact Analysis only assesses the preferred option.	The Treaty Impact Analysis only assesses the preferred option.	The Treaty Impact Analysis only assesses the preferred option.
Overall assessment	0	- Achieves the policy objective of rebalancing TMoTW. Does not achieve the policy objective of providing greater certainty and clarity.	+ Achieves both policy objectives.	- Achieves both policy objectives. Potential implications for Crown assurances on Māori freshwater rights and interests.	- Achieves the policy objective of rebalancing TMoTW. Could introduce uncertainty into the replacement NPS-FM. Potential implications for Crown assurances on Māori freshwater rights and interests.	- - Achieves both policy objectives. Potential implications for Crown assurances on Māori freshwater rights and interests.

Key for qualitative judgements				
++ much better than doing nothing / the status quo / counterfactual	**+** better than doing nothing / the status quo / counterfactual	**0** about the same as doing nothing / the status quo / counterfactual	**-** worse than doing nothing / the status quo / counterfactual	**- -** much worse than doing nothing / the status quo / counterfactual

What option is likely to best address the problem and meet the policy objectives?

87. Option two best addresses the problems identified with the TMoTW provisions and achieves the objectives of 'rebalancing TMoTW' consistent with coalition agreements, and providing greater clarity in the replacement NPS-FM about its meaning and how it operates, as:

    a. TMoTW would be positioned as a concept that sits separately from the objectives of the NPS-FM as part of the overall framework for freshwater management. This is in addition to replacing the single objective of the NPS-FM that contains the TMoTW hierarchy of obligations with multiple objectives that must be given effect to by regional councils (discussed under Issue two). Collectively, this 'rebalances' TMoTW as multiple objectives will provide broader scope for councils to balance competing matters in decision-making

    b. the concept would explicitly recognise choices about maintaining or improving water quality, and that improvements can be progressive over time (as determined by communities and tangata whenua). This would also clarify that the hierarchy of obligations does not set an environmental bottom line that must be met before the second and third tiers can be provided for

    c. there would be no obligation specified for TMoTW within the NPS-FM (eg, 'give effect to' under the status quo). TMoTW would be given effect to as part of giving effect to the NPS-FM as a whole. This would mitigate the risk that TMoTW provisions are interpreted as having greater weighting relative to other NPS-FM provisions

    d. steps that councils must follow to give effect to TMoTW in giving effect to the NPS-FM as a whole would be specified. This would provide certainty to regional councils in their planning processes

    e. the NPS-FM would state that TMoTW provisions do not apply to resource consenting. This would enable councils to determine how TMoTW applies locally before it influences resource consenting.

88. Except for TMoTW provisions not applying to resource consenting, the changes proposed under Option two are not considered material as they are clarificatory in nature.

89. TMoTW provisions not applying to resource consenting has the *potential* to adversely affect freshwater quality. This risk would exist until regional policy statements and plans that give effect to the replacement NPS-FM and new TMoTW provisions are in place. The materiality of this is both uncertain and difficult to assess for a number of reasons. Most notably because other key RMA requirements and NPS-FM directives would continue to apply, and the hierarchy of obligations in TMoTW is excluded from resource consenting under the RMA.

90. We recommend Option two.

Issue two: The required pace, scale and cost for achieving freshwater improvement is unclear, and there is insufficient recognition of key government priorities within objectives and policies

91. This topic is looking at:
    a. how the objectives and policies balance multiple outcomes in the NPS-FM
    b. setting clear direction about the scale, cost and pace of change, clarifying that long timeframes may be appropriate for achieving freshwater outcomes, while still requiring 'maintain or improve'
    c. reducing costs, complexity, and inflexibility, while improving the health of freshwater for all New Zealanders.
92. Two options alongside the status quo were considered in this context.
93. The options considered here cover a lot of detail, and for comparison between the options, they each address:
    a. Number of objectives/achieving balance
    b. Considering scale, pace and cost
    c. Requirements to maintain or improve
    d. Additional policies to address government priorities.
94. The three options considered under this issue incorporate to varying degrees the feedback we heard from targeted engagement. There were a range of different views with preferences for a single objective (ie, status quo) to multiple objectives that set clear expectations and consistent interpretation (ie, option two). All the options are clear on the requirement to 'maintain and improve' which was generally supported across a broad range of stakeholders. The status quo aligns with feedback from iwi/Māori and ENGOs while option two most closely aligns with feedback from the primary sector.

Status Quo (no change to the 2020 NPS-FM)

95. Under this option, no change would be made, meaning:
    a. a single objective that requires freshwater to be managed in accordance with the Te Mana o te Wai hierarchy of obligations
    b. targets set to improve freshwater can be of any length, but if long term, interim targets that track towards achieving the end goal for improvement must also be set at 10 yearly intervals. Timeframes must also be 'ambitious but reasonable'.
    c. a policy requiring that freshwater is managed to maintain or improve (requiring degraded freshwater ecosystems to be improved, and all other freshwater ecosystems to be maintained or, if communities choose, to be improved). This is supported by other settings.
    d. no additional objectives to achieve specific Government priorities.

Option one – Revert back to the 2017 NPS-FM

96. Under this option, the NPS-FM would revert to the 2017 version, meaning:
    a. 15 objectives that councils need to balance and provide for in the management of

freshwater at the catchment scale. This includes enabling communities to provide for their economic well-being, and productive economic opportunities in sustainably managing freshwater quality within limits

b. direction to councils, as part of target setting, to consider the impacts on resource users and communities arising from community aspirations for freshwater, and the timeframes over which that will happen.

c. an objective requiring that the *overall* quality of freshwater is maintained or improved within a freshwater management unit (FMU). This is supported by other settings.[55]

d. no additional policies to achieve specific Government priorities.

Option two – Objectives and policies set direction on scale, cost and pace of change needed, and new objectives to meet specific priorities

97. Under this option, a replacement NPS-FM would be developed, meaning:

a. multiple objectives (6) that councils need to balance and provide for in the management of freshwater at the catchment scale. This would include an objective setting out that freshwater should be managed in a way that balances multiple outcomes, for example, by managing the health of the environment, people and communities while also providing for social, cultural and economic well-being

b. an objective would clarify that when freshwater outcomes are set, consideration must be given to the costs of change, who bears the cost and over what timeframe, and that gradual improvement over long timeframes, and that multiple planning cycles may be required

c. an objective would require that freshwater be managed to maintain or improve (requiring degraded freshwater ecosystems to be improved, and all other freshwater ecosystems to be maintained or, if communities choose, to be improved). This would be supported by other settings (as per the 2020 NPS-FM)

d. additional objectives (and policies) relating to specific priorities (eg, water storage and commercial vegetable growing) would be included. (This is covered in more detail in the RISs on those specific topics, as part of the wider freshwater package).

[55] This arguably allows for significant localised degradation of water quality provided improvements are made elsewhere – this is discussed further below in assessing this option.

How do the options compare to the status quo/ counterfactual?

	Status Quo (2020 NPS-FM)	Option one – Revert to the 2017 NPS-FM	Option two – Tailored objectives and policies
Effectiveness	0	0 Option one would provide better direction on the balance needed in managing freshwater, and on the consideration of scale, pace and costs of achieving freshwater outcomes. However, it does not address the issues with the 2017 policy on "maintain or improve" (that were addressed in the 2020 version), which is that it arguably allows for significant localised degradation of water quality provided improvements are made elsewhere (through the reference to "overall" improvement). Also, it does not provide for specific Government priorities.	++ Option two would provide better direction on the balance needed in managing freshwater, and on the consideration of scale, pace and costs of achieving freshwater outcomes. It also addresses the issues with the 2017 policy on "maintain or improve" (that were addressed in the 2020 version), ensuring that the NPS-FM doesn't inadvertently allow for significant localised degradation of water quality provided improvements are made elsewhere. It also provides for specific Government priorities through new objectives and policies (such as water storage and vegetable growing – noting full analysis of these topics are covered in separate RISs).
Efficiency	0	+ Option one provides high level direction, through objectives and policies, for how councils should manage freshwater and what factors should be considered in decision-making, however the decisions still rest at local level, where local circumstances can be taken into account. This option will be cost-effective in its implementation - by directing a focus on considering the costs associated with actions to manage freshwater and implement the NPS-FM. Not providing for specific Government priorities is not cost-effective as, without direction on those issues, they may need to be debated and litigated further in the development of freshwater planning instruments. Noting, as a national direction instrument, there is a limit to the amount of flexibility that can be provided for at the local level.	+ Option two provides high level direction, through objectives and policies, for how councils should manage freshwater and what factors should be considered in decision-making, however the decisions still rest at local level, where local circumstances can be taken into account. This option will be cost-effective in its implementation - by directing a focus on considering the costs associated with actions to manage freshwater and implement the NPS- FM. Providing for specific Government priorities is cost- effective, as it is likely to reduce the debate and litigation on these topics within the development of freshwater planning instruments. Noting, as a national direction instrument, there is a limit to the amount of flexibility that can be provided for at the local level.
Alignment	0	+ Option one aligns with other proposals in the freshwater package as part of a wider change to rebalance freshwater management and provide for greater consideration of the cost and ability to undertake particular activities. Not providing new objectives and policies for specific Government objectives does not align with the policy proposals being prepared on related matters (such as vegetable growing and water storage). Further information about how this option aligns with the wider RM system will come following public consultation, when further information will be available about the direction of changes proposed through Phase 3 of RM reform.	++ Option two aligns with other proposals in the freshwater package as part of a wider change to rebalance freshwater management and provide for greater consideration of the cost and ability to undertake particular activities. Providing new objectives and policies for specific Government objectives aligns with the policy proposals being prepared on related matters (such as vegetable growing and water storage). Further information about how this option aligns with the wider RM system will come following public consultation, when further information will be available about the direction of changes proposed through Phase 3 of RM reform.
Implementation	0	0 Option one would not change the overall framework within the NPS-FM in a substantive way from the 2020 NPS-FM, in terms of the process councils are required to follow, so they will be well-prepared for implementing this instrument. Further, it is reverting to a previous version of the NPS- FM which they would be familiar with. No particular implementation issues or challenges have been identified (feedback through the public consultation process may provide detail on any such challenges). Note that the 2020 NPS-FM has not yet been implemented (freshwater planning instruments have – for the most part – not yet been notified), so while a return to the 2017 version of the NPS-FM would in policy terms be a step away from the status quo, the effect 'on the ground' may not be so significant.	0 Option two would not change the overall framework within the NPS-FM in a substantive way from the 2020 NPS-FM, in terms of the process councils are required to follow, so they will be well-prepared for implementing this instrument. Some parts would be similar to previous versions of the NPS-FM (such as having multiple objectives, and clear direction on consideration of scale, pace and cost of actions), which councils would be familiar with. New objectives to specific Government priorities will be implemented by councils, applying the same processes and framework as used previously. No particular implementation issues or challenges have been identified (feedback through the public consultation process may provide detail on any such challenges).
Treaty of Waitangi	0	The Treaty Impact Analysis only assesses the preferred option.	Refer to the Interim Treaty Impact Analysis (**Appendix C**).
Overall assessment	0	+ Overall, Option one would provide better direction on the balance needed in managing freshwater, and on the consideration of scale, pace and costs of achieving freshwater outcomes. However, it does not address the issues with the 2017 policy on "maintain or improve" (that were addressed in the 2020 version), which is that it arguably allows for significant localised degradation of water quality provided improvements are made elsewhere (through the reference to "overall" improvement). And it does not provide for specific Government priorities (such as water storage and vegetable growing).	++ Overall, Option two would provide better direction on achieving balance, especially in terms of the necessary consideration of scale, pace and costs of achieving freshwater outcomes. It also addresses the issues with the 2017 policy on "maintain or improve" (that were addressed in the 2020 version), ensuring that the NPS-FM doesn't inadvertently allow for significant localised degradation of water quality provided improvements are made elsewhere. And it provides for specific Government priorities through new objectives and policies (such as water storage and vegetable growing).

Key for qualitative judgements	++ much better than doing nothing / the status quo / counterfactual	+ better than doing nothing / the status quo / counterfactual	0 about the same as doing nothing / the status quo / counterfactual	- worse than doing nothing / the status quo / counterfactual	- - much worse than doing nothing / the status quo / counterfactual

What option is likely to best address the problem and meet the policy objectives?

98. Option two is likely to best address the policy problem and meet the policy objectives. That is largely due to:

    a. the additional objectives and policies (for vegetable growing and water storage) providing for specific Government priorities

    b. being clear that the NPS-FM is not requiring improvements to the *overall* water quality, as was the case in 2017 (and would resume under Option one), thus ensuring that the NPS-FM does not inadvertently allow for significant localised degradation of water quality provided improvements are made elsewhere

    c. clear direction on achieving balance, especially in terms of the necessary consideration of scale, pace and costs of achieving freshwater outcomes.

99. Feedback received through public consultation will provide further information on the impacts of the proposals, and where there is support or opposition, or alternative ideas to address the problem.

Issue three: Limited ability for councils to take account of regional variation when setting environmental limits under the National Objectives Framework (NOF)

100. This topic relates to:

    a. reducing costs and complexity, while improving the health of freshwater for all New Zealanders

    b. allowing councils more flexibility in how they set environmental limits under the NPS-FM.

101. Managing freshwater is inherently complex. The NOF process has been in the NPS-FM since 2014. It provides a framework for councils and communities to manage effects and provide for use within environmental limits. It is inevitably technical and challenging to implement, but ensures a consistent and outcomes-focused approach at the catchment level. The main components of the NOF are described in Table 3 below.

102. Three options alongside the status quo were considered in this context.

103. In considering how to achieve the objectives for this issue, there is a wide spectrum of options available, which could include making any or all of the 13 values and twenty-two current attributes optional or compulsory for councils to manage, and providing various levels of flexibility in the attribute tables (ie, around the thresholds (including national bottom lines) and monitoring methods).

104. Public consultation will be broad and will seek feedback on which, if any, values and attributes are critical to be managed, and which attributes, if any, should have national bottom lines. It is not possible for this interim RIS to consider all possible combinations of compulsory attributes or options for flexibility, but the final RIS will assess the specific option(s) that may be progressed.

105. Options one and two describe specific examples of how the elements of the NOF could be refined to address key concerns and feedback received. For example, by managing the four known major contaminants (sediment, nitrogen, phosphorus and E. coli),

addressing issues identified with some attributes (eg, nitrate and ammonia toxicity, macroinvertebrates), and providing flexibility in the attribute tables for how councils must or may set environmental outcomes, including in the thresholds and monitoring methods to be used.

106. Option two was shaped by feedback, primarily from councils and the primary sector, that less prescription and greater flexibility was needed in the NOF to achieve local water quality targets.

107. Option three is at the other end of the spectrum from the status quo, with full flexibility for councils to choose which values and attributes suits their local circumstances, and what, if any, bottom lines would apply.

108. Further feedback from public consultation will be needed to understand the impact of these proposals and inform decisions on the final details of the different options.

109. The options considered here cover a lot of detail, and for comparison between the options, they each address:

    (a) Values

    (b) Attributes

    (c) Attribute tables (and the extent of nationally consistent threshold and monitoring methods)

    (d) – (g) Key attributes, including sediment, E. coli, nitrate and ammonia toxicity, and MCI

    (h) Exceptions

Table 3: Main components of the NOF

NOF component	Description
Values	There are four compulsory values in the 2020 NPS-FM, requiring councils to provide for: - Ecosystem health - Human contact - Mahinga kai (optional in 2017) - Threatened species (optional in 2017) There are also a range of 'optional values', included since 2017 (eg, water supply, irrigation, cultivation and food production). Councils consider if these should be provided for, having regard to local circumstances.
Attributes	Attributes are the measurable characteristics of water quality that councils monitor and manage to provide for a value (eg, nitrate, sediment, periphyton (slime), etc). The 2020 NPS-FM includes 22 attributes that councils must monitor and manage, providing for the ecosystem health and human contact values. Councils are able to identify additional attributes.

Attribute thresholds and monitoring methods	Each attribute in the NPS-FM is set out in a table, with standard monitoring methods and thresholds (eg, numeric ranges that align with bands A to D) describing the extent to which a value is being provided for. Most include a minimum acceptable standard called a 'national bottom line' – councils must set targets at or above these. An example is provided below.
Achieving environmental limits	Councils use the attribute table to set **targets** (environmental limits) for each attribute (based on current state or better) and achieve these through **limits on resource use** (ie, rules in plans) and/or **action plans** depending on the attribute. Action plans can describe both regulatory and non-regulatory measures (eg, investment and restoration projects), and are allowed as a way to achieve targets for some attributes, recognising limits on resource use may not be effective (eg, because they are impacted by historic changes in land cover or other factors that are difficult to control under the RMA).

Table 4 – Total phosphorus (trophic state)

Value (and component)	Ecosystem health (Water quality)
Freshwater body type	Lakes
Attribute unit	mg/m³ (milligrams per cubic metre)
Attribute band and description	**Numeric attribute state**
	Annual median
A Lake ecological communities are healthy and resilient, similar to natural reference conditions.	≤10
B Lake ecological communities are slightly impacted by additional algal and plant growth arising from nutrient levels that are elevated above natural reference conditions.	>10 and ≤20
C Lake ecological communities are moderately impacted by additional algal and plant growth arising from nutrient levels that are elevated well above natural reference conditions.	>20 and ≤50
National bottom line	**50**
D Lake ecological communities have undergone or are at high risk of a regime shift to a persistent, degraded state (without native macrophyte/seagrass cover), due to impacts of elevated nutrients leading to excessive algal and/or plant growth, as well as from losing oxygen in bottom waters of deep lakes.	>50
For lakes and lagoons that are intermittently open to the sea, monitoring data should be analysed separately for closed periods and open periods.	

Status Quo (no change to the 2020 NPS-FM)

110. Under this option, no change would be made, meaning the following would be required under the NPS-FM:

a. four compulsory **values** (Ecosystem health, Human contact, Threatened species, and Mahinga kai), and a number of other values that councils may consider

b. 22 **attributes**, focused almost entirely on ecosystem health, compulsory to manage. These would be divided into 10 attributes[56] which require *limits on*

[56] The attributes included within Appendix 2A of the 2020 NPS-FM.

resource use (rules in plans), and may also use *action plans*, and 12 attributes[57] that require an *action plan*. All 22 attributes must be monitored, and must be managed if monitoring shows a worsening trend or degraded state (ie, below a national bottom line)

c. the **attribute tables** in the appendices provide nationally consistent thresholds and monitoring methods for the 22 attributes

d. **sediment** is an attribute that must be managed through limits on resource use – this was a key addition in 2020, with attributes introduced for suspended fine sediment (requiring limits on resource use), and deposited sediment (requiring an action plan – recognising it is more complex to manage)

e. additional ***E. coli*** attribute for swimming sites – this was another key change in 2020. Amendments in 2020 introduced an additional *E. coli* attribute based on the long-standing Microbiological Water Quality Guidelines[58] and included a national bottom line linked to a-less-than 5% risk of infection, 95% of the time. In effect, this reintroduced some features of the 2014 approach that were lost in the 2017 change. The additional 2020 *E. coli* attribute only applies at (council designated) primary contact sites (ie, where people swim). It sits alongside the 2017 attribute (which applies everywhere) and national target, both of which were retained.

f. **nitrate toxicity and ammonia toxicity** attributes must be managed through limits on resource use, with a national bottom line at the B-C threshold (ie, 95% of species protected from toxic effects)[59]

g. **macroinvertebrate community index (MCI)[60]** is an action planning attribute and national bottom line

h. **exceptions** to national bottom lines would be provided for naturally occurring processes, as well as providing for specified hydro schemes.[61]

111. Not all new attributes have national bottom lines, eg, dissolved reactive phosphorus.

112. The 2020 NPS-FM introduced a distinction between attributes requiring *limits on resource use* (rules in a plan), and others requiring *action plans* (which may or may not be in a plan, and can instead focus on non-regulatory matters such as investment and restoration etc – this approach is useful in situations where the attribute is impacted by something other than resource use/activities councils can control under the RMA).

Option one – Revert back to 2017 NPS-FM

113. Under this option, the following would be required under the NPS-FM:

a. two compulsory **values** (Ecosystem health and Human contact), and other values that councils may consider (including Threatened species and Mahinga kai)

[57] The attributes included within Appendix 2B of the 2020 NPS-FM.

[58] "Microbiological Water Quality Guidelines for Marine and Freshwater Recreational Areas"

[59] This is a stricter bottom line than in 2017. The national bottom line for these two attributes moved from the C-D threshold (ie, 80% of species protected from toxic effects) to the B-C band (ie, 95% of species protected from toxic effects).

[60] Macroinvertebrate Community Index (MCI) is used as a measure of freshwater quality. The presence or lack of macroinvertebrates such as insects, worms and snails in a river or stream can give a biological indicator on the health of that waterway.

[61] Note there was also an exception for specified vegetable growing areas, but that has subsequently been quashed through litigation and removed from the NPS-FM.

b. nine **attributes** would be compulsory to manage. All nine attributes must be monitored, and must be managed, including where monitoring shows quality has degraded

c. the **attribute tables** in the appendices provide nationally consistent thresholds and monitoring methods for the nine attributes

d. **sediment** would not be required to be managed through limits on resource use

e. ***E. coli*** would be managed. The 2017 E. coli attribute would be applicable everywhere as a human health attribute. Sampling would occur in water bodies regardless of weather or flow conditions. There would need to be policy established to increase the amount of time water bodies were suitable for primary contact (Objective A3) and surveillance monitoring would need to be undertaken at bathing sites, and the public advised when a site was unsafe, in accordance with Ministry of Health/Ministry for the Environment guidelines.[62]

f. **nitrate toxicity and ammonia toxicity** attributes must be managed, with a national bottom line set at 80% of species protected from toxic effects

g. **MCI** is something to be monitored and which would trigger action (eg, to establish causes) when it reached a certain threshold

h. **exceptions** to national bottom lines would be provided for naturally occurring processes. No exceptions would be provided for specified hydro schemes.

Option two – Introduce optionality for some attributes, and provide flexibility in thresholds and methods

114. Under this option, the following would be required under the NPS-FM:

a. two (Ecosystem health, Human contact) or more (Threatened species, and Mahinga kai) compulsory **values**, and a number of other optional values that councils may consider

b. ten compulsory **attributes** (must be managed through limits on resource use, and may have action plans); and twelve optional attributes (optional for councils and communities to manage, with any targets able to be achieved through action plans) or an alternative subset of attributes that are needed to understand the state of freshwater for the four critical contaminants (nitrogen, phosphorus, sediment and E. coli). A requirement to monitor both compulsory and optional attributes and manage these if monitoring shows a worsening trend or degraded state (ie, below a national bottom line)

c. the **attribute tables** in the appendices provide a default set of nationally consistent thresholds and methods. Flexibility is introduced, enabling councils to deviate from these default thresholds and methods if they meet certain criteria, ie:

i. the science or evidence underpinning them has changed – eg, the relationship between E. coli and pathogens is revised, but the NPS-FM has not yet been updated;

ii. local conditions mean they are not appropriate – eg, to account for naturally high concentrations of phosphorus or sediment, or water hardness meaning the toxicity of nitrate-nitrogen is lower; or

iii. more efficient or effective monitoring methods are developed – eg, protocols for sampling MCI improve over time, new eDNA techniques

[62] "Microbiological water quality guidelines for marine and freshwater recreational areas"

for monitoring the presence/absence of fish, real-time predictions of E. coli by SafeSwim are comparable to monitoring, etc, or

iv. where achieving national bottom lines has a high social, cultural or economic cost

This would be subject to further requirements that the variation must not compromise the attribute's ability to provide for the relevant value, and that councils have regard to the benefits of national consistency and long-term datasets. The attributes, and band descriptions describing the outcome state for each attribute, would remain consistent, with flexibility around the numbers and methods

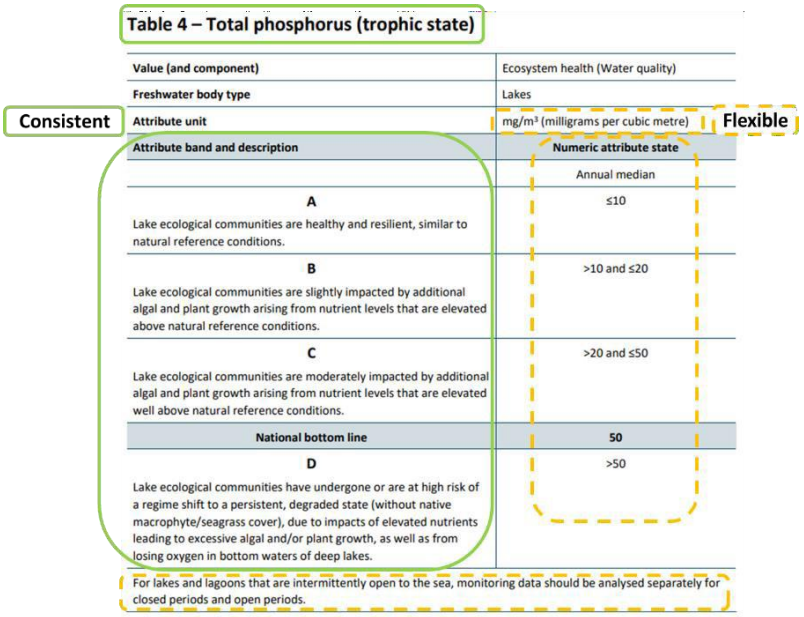

Table 4 – Total phosphorus (trophic state)

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C Lake ecological communities are moderately impacted by additional algal and plant growth arising from nutrient levels that are elevated well above natural reference conditions.	>20 and ≤50
National bottom line	**50**
D Lake ecological communities have undergone or are at high risk of a regime shift to a persistent, degraded state (without native macrophyte/seagrass cover), due to impacts of elevated nutrients leading to excessive algal and/or plant growth, as well as from losing oxygen in bottom waters of deep lakes.	>50
For lakes and lagoons that are intermittently open to the sea, monitoring data should be analysed separately for closed periods and open periods.	

d. **sediment** would be managed through limits on resource use and action plans – suspended fine sediment and deposited sediment would either be compulsory or optional attributes, (recognising deposited sediment is more complex to manage). [Noting the flexibility for councils to deviate from attribute thresholds and monitoring methods where justified]

e. **E. coli** must be managed – at this stage, this would be as per the 2020 NPS-FM. Further advice is being prepared on this, and further information received through public consultation will inform final proposals on this attribute. [Noting the flexibility for councils to deviate from attribute thresholds and monitoring methods where justified]

f. **nitrate toxicity and ammonia toxicity** attributes must be managed, with feedback sought on what level (80-95% of species protected from toxic effects) should be set [Noting the flexibility for councils to deviate from attribute thresholds and monitoring methods where justified]

g. **MCI** would be managed as either a compulsory attribute with a national bottom line or as optional attribute with an action plan

h. **Exceptions** to national bottom lines would be provided for naturally occurring processes, as well as providing for specified hydro schemes.

Option three – Provide full flexibility for values, attributes and national bottom lines by making them all optional

115. Option three is at the other end of the spectrum from the status quo, with full flexibility for councils to choose which values and attributes suits their local circumstances, and what, if any, bottom lines would apply.

116. Under this option, the following would be required under the NPS-FM:

    a. no compulsory **values;** and 13 optional values that councils may consider

    b. no compulsory **attributes**; and twenty-two optional attributes (optional for councils and communities to manage, with any targets able to be achieved through limits on resource use or action plans). There would be no specific requirement in the NPS-FM to monitor optional attributes, or to manage these (including in situations where monitoring shows a worsening trend or degraded state)

    c. no compulsory **national bottom lines**. The **attribute tables** in the appendices would be included as a reference only, setting out thresholds (including national bottom lines) and methods that councils could choose to apply *if* they choose to manage any of these optional attributes. Councils could also choose to develop and apply their own bottom lines that match their local circumstances.

117. Under this option, there would be more flexibility for councils. However, councils would still have obligations under the NPS-FM to set environmental outcomes (in consultation with communities), and to maintain or improve freshwater. This is underpinned by broader RMA requirements for sustainable management and section 30 requiring the maintenance and enhancement of the quality of water in water bodies and coastal water.

118. This means there are certain elements we might expect councils would consider and include, even if they are not compulsory. For example, councils would likely consider the values of Ecosystem health and Human contact. They may also set targets around the four major contaminants known to impact ecosystem health (sediment, nitrogen, phosphorus and E. coli).

How do the options compare to the status quo/counterfactual?

	Status Quo (2020 NPS-FM)	Option one – Revert to the 2017 NPS-FM	Option two – Optionality for attributes, and flexibility in thresholds and methods	Option three – Attributes and national bottom lines are all optional
Effectiveness	0	+ Reduction in total attributes does reduce the complexity. This option does not provide specific flexibility for regional variation, but, by removing the requirement to manage some attributes it address issues with variability in those particular attributes (eg, sediment). However, by only managing nine attributes, and not managing sediment which is a widespread issue and major contaminant that impacts ecosystem health, this option does not safeguard the environment from adverse effects.	++ Reducing the number of compulsory attributes to manage from 22 down to 10 (or more/less subject to feedback) will reduce the complexity, and provide more flexibility for councils (and communities) to determine whether or not to manage the optional attributes. The requirement to monitor both compulsory and optional attributes will ensure there is still a consistency of national level data and monitoring across attributes. However, it is still a large number of attributes for councils to monitor and consider and feedback will be sought to inform final decisions. Flexibility in attribute tables recognises that they may not be appropriate everywhere, and provides for local variability (eg, natural variation in sediment levels, beyond what can be addressed through the naturally occurring processes mechanism in Clause 3.32). Any variations risk the consistency of national data and long-term datasets, but this is something councils must consider when determining whether to deviate from the national thresholds and monitoring methods. This flexibility does risk uncertainty for councils and resource users, with increased opportunities for disagreement. However, the criteria that must be met, plus an ability for councils to choose to use the national default tables, would mitigate this.	- Making attributes and national bottom lines optional (rather than compulsory) is more flexible than the status quo. It may increase costs and complexity for councils (and communities) in deciding what is necessary to manage for their region, as it provides no direction from a national level on what attributes are considered critical to manage, and may result in more dispute at the local level. This option may not be effective at safeguarding the environment if key attributes are not managed. There is greater uncertainty about which, if any, and how attributes would be managed, as there would no longer be a minimum requirement for certain attributes to be managed. Councils still have obligations to manage freshwater, and may still set environmental limits above the current national bottom lines, but there would be no national guardrails in place ensuring that. This would also depend on how the rest of the NPS-FM is structured with the removal of compulsory attributes and national bottom lines – that would need to be considered further following feedback from consultation, and as part of assessing final options
Efficiency	0	+ This option would reduce the number of attributes required to be monitored (from 22 down to 9), which would be more cost-effective, and address some concerns about national thresholds being applied – ie, the concerns around sediment thresholds would be resolved as sediment would no longer be a managed attribute. However, this option does not provide any flexibility beyond that for councils to allow local circumstances to be adequately addressed, as there is no additional flexibility in relation to the attributes being managed – the thresholds and monitoring methods in the attribute tables will apply nationally.	++ Setting a clear requirement for councils to manage all 4 major contaminants is efficient and removes argument over whether these attributes need to be managed. It also ensures councils have tools to manage these attributes, which are known to be major contaminants. Enabling councils flexibility to deviate from the default national thresholds and monitoring methods is key in providing councils the flexibility to allow local circumstances to be adequately addressed at the local level.	0 This option provides flexibility for local circumstances to be addressed by making all attributes and bottom lines optional. It may not be cost-effective if there are disputes over which attributes need to be managed and what level of protection is required to maintain or improve freshwater.
Alignment	0	0 This option aligns with recommendations for the new RM system set out in the EAG Report, specifically relating to the role of environmental limits within freshwater planning and resource management. Further information about how this option aligns with the wider RM system will come following public consultation, when further information will be available about the direction of changes proposed through Phase 3 of RM reform.	+ This option aligns with recommendations for the new RM system set out in the EAG Report, specifically relating to the role of environmental limits within freshwater planning and resource management. Further information about how this option aligns with the wider RM system will come following public consultation, when further information will be available about the direction of changes proposed through Phase 3 of RM reform.	0 This option may not align with recommendations for the new RM system set out in the EAG Report, specifically relating to the role of environmental limits (attributes are used for the basis of this) within freshwater planning and resource management. Further information about how this option aligns with the wider RM system will come following public consultation, when further information will be available about the direction of changes proposed through Phase 3 of RM reform.
Implementation	0	+ This option would have a fewer number of attributes to manage or monitor, reducing the implementation burden on councils. Note that the 2020 NPS-FM has not yet been implemented (freshwater planning instruments have – for the most part – not yet been notified), so while a return to the 2017 version of the NPS-FM would in policy terms be a step away from the status quo, the effect 'on the ground' may not be so significant.	+ This option may retain the same total number of attributes (22) as the 2020 NPS-FM (status quo), however 12 (more/less) would now be optional. That may reduce the implementation burden for councils, with fewer attributes requiring limits on resource use to be set through planning. However, there is a risk of increased debate and litigation through the freshwater planning process as councils and communities determine whether or not to manage the optional attributes. Likewise, the increased flexibility provided for thresholds and monitoring methods may make implementation easier, as councils can deviate from the default thresholds and monitoring methods where justified for their region. This will help to avoid implementing targets that are not feasible in regions. However, this flexibility may too increase the risk of debate and litigation through the freshwater planning process. This will be mitigated by the requirement for the councils to adopt the default national thresholds and monitoring methods unless deviation is justified.	0 This option may reduce the implementation burden for councils, with no attributes requiring limits on resource use to be set through planning. However, there is a risk of increased debate and litigation through the freshwater planning process as councils and communities determine whether or not to manage the optional attributes and any associated bottom lines, in the absence of this being set through national direction.

Treaty of Waitangi	0	The Treaty Impact Analysis only assesses the preferred option.	Refer to the Interim Treaty Impact Analysis (**Appendix C**).	The Treaty Impact Analysis only assesses the preferred option.
Overall assessment	0	+ Option one provides a less complex framework than the status quo, but does not provide additional flexibility for councils to take account of local circumstances the removal of the requirement to manage certain attributes.	++ In summary, Option two will provide greater flexibility for councils to take into account local circumstances, both in choosing whether to manage the optional attributes, and in considering whether to deviate from the default national thresholds and monitoring methods. However, with that comes an increased risk of debate and litigation through the freshwater planning process.	- Option three will provide greater flexibility for councils to take into account local circumstances, both in choosing which (if any) attributes to manage and any associated bottom lines. However, it won't set specific, consistent minimums (in terms of either attributes or bottom lines) that councils must apply. If key attributes are not managed, it will not be possible to assess the health of the environment and the effectiveness of actions taken to maintain or improve freshwater (noting requirements under s30 of the RMA). Greater flexibility and uncertainty is expected to increase risk of debate and litigation through the freshwater planning process.

Key for qualitative judgements	++ much better than doing nothing / the status quo / counterfactual	+ better than doing nothing / the status quo / counterfactual	**0** about the same as doing nothing / the status quo / counterfactual	- worse than doing nothing / the status quo / counterfactual	- - much worse than doing nothing / the status quo / counterfactual

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

119. Option two is likely to best address the policy problem and meet the policy objectives. That is largely due to:

    a. the flexibility provided to councils to vary the thresholds and monitoring methods in the attribute tables taking into account local circumstances (where justified)

    b. the flexibility provided to councils to choose whether to manage the optional attributes, taking into account local circumstances

    c. the environmental safeguards in place by requiring sediment and other attributes (to manage the four known major contaminants – nutrients, sediment and *E. coli*) to be managed, and requiring the optional attributes to be monitored, and managed where they show degradation

    d. the core set of compulsory values, attributes and bottom lines (with optionality for local circumstances) will support a more enduring freshwater management system.

120. The flexibility to deviate from the default national thresholds and monitoring methods for attributes will address key concerns, including those raised in the Beef + Lamb NZ report about natural variation, and the need to vary by region.

121. The move to having a combination of compulsory and optional attributes provides more flexibility for councils to consider what attributes are relevant in their region, while also providing much more environmental protection than Option one or three.

122. The flexibility provided in this option does come with an increased risk of debate and litigation through the freshwater planning process (though not as much as for option three).

123. Retaining a core set of compulsory values, attributes and bottom lines with optionality for local circumstances will support a more enduring freshwater management system than option three.

124. Feedback received through public consultation will provide further information on the impacts of the proposals, and where there is support or opposition, or alternative ideas to address the problem.

What are the marginal costs and benefits of the option?

125. An analysis of the marginal costs and benefits of the recommended options across the three issues has been undertaken. This includes assessment of:
    a. Issue one, option two: Retain the three components of the 2020 NPS-FM TMoTW concept with amendments to provide more clarity and certainty about its meaning and how it operates.

    b. Issue two, option two: Objectives and policies set direction on scale, cost and pace of change needed, and new objectives to meet specific priorities.

    c. Issue three, option two: Optionality for attributes, and flexibility in thresholds and methods.

126. Further feedback on costs and benefits will be sought through public consultation to better assess the impact of the proposed changes.

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Regulated groups (eg, consent holders, water users)	The proposed changes will simplify the system which should not impose additional costs for regulated parties. There is uncertainty about this, as additional costs will be dependent on the decisions that councils and communities make through regional planning processes with the implementation of the NPS-FM.	Low	Low
Regulators (councils)	The proposed changes will simplify the system although this may not change the cost to councils who retain the same obligations to work with communities to implement the direction through planning processes. There may be additional costs for those councils that have started implementing the 2020 NPS-FM as they will need to undertake further consultation to align with the changes. For other councils, who have yet to implement the 2017 NPS-FM the costs are expected to be the same.	Low-medium	Low
Wider government	There are additional costs with policy development as well as costs for producing any updated guidance.	Medium	Low
Iwi/Māori	Refer to Treaty impact analysis (**Appendix C**)		
Total monetised costs	N/A	N/A	N/A
Non-monetised costs	Overall, there is not expected to be additional costs compared to the status quo. The changes are designed to simplify the system reduce costs.	Low medium	Low

Additional benefits of the preferred option compared to taking no action			
Regulated groups	The proposed changes create a simpler system which should benefit regulated parties through simpler rules, fewer consenting requirements, and longer timeframes and more flexibility to achieve environmental outcomes.	Medium	Low
Regulators (councils)	Longer term the changes should reduce the consenting burden on councils and provide greater clarity on what they are required to do. In the short-medium term there is not expected to be additional benefits as councils are still required to follow the same process to implement national direction.	Low	Low
Wider Government	No additional benefits have been identified	Low	Low
Iwi/Māori	Refer to Treaty impact analysis (**Appendix C**)		
Total monetised benefits	N/A	N/A	N/A
Non-monetised benefits	Overall, regulated parties and councils should benefit from a simpler system with clearer and more flexible rules.	Low-Medium	Low

Section 3: Delivering an option

How will the new arrangements be implemented?

127. Section 46A of the RMA sets out the process for preparing a national policy statement.

128. The policy proposals described in this interim RIS have been informed through targeted engagement and will undergo (pending Cabinet approval) full public consultation (expected later this year), to seek further feedback on the proposals. This interim RIS will support that. Following public consultation, final advice (including a report and recommendations, and a final RIS) will be prepared, to inform Ministers' decision-making and Cabinet agreement sought on the content of the final instrument (likely the end of 2025). At this stage there is no proposal to release an exposure draft of the NPS-FM, though this could be progressed according to need and if time allows.

129. Regional councils have the role of developing freshwater planning instruments, to give effect to national direction – including the NPS-FM. This process typically takes several years, with timeframes and a process for developing those instruments set out in the RMA, under the freshwater planning process.[63] This currently requires regional councils to give effect to the NPS-FM by 31 December 2027;[64] and to do so no earlier than 31 December 2025 or when a replacement NPS-FM is in effect, whichever is earlier.[65] (Prior to the recent extensions (in 2023) and limitations (in 2024) on timeframes, notification of freshwater plans giving effect to the 2020 NPS-FM was required by the end of 2024. This means that councils were well underway in developing freshwater planning instruments to give effect to the 2020 NPS-FM, but (for the most part) these were not notified. The specific changes, if any, made to the NPS-FM will impact how much previous work can still be used in implementation, and how much will need to be done again.

130. When introduced, the Ministry for the Environment will support regional councils (including any unitary authority) and the industry sectors to implement the replacement NPS-FM through the publication of updated guidance documents and advisory notes.

How will the new arrangements be monitored, evaluated, and reviewed?

131. Environmental impacts of the proposals will be assessed via at least three mechanisms.

    a. "Domain reports" directed under the Environmental Reporting Act 2015 that require 3 yearly reporting from Ministry for the Environment and StatsNZ against air, atmosphere and climate, freshwater, land and marine domains.

    b. State of the Environment reporting undertaken by individual councils,[66] typically done on both annual (updates) and 3-5 yearly (comprehensive) cycles. This reporting is informed by data from the compulsory attributes in the NOF that councils must monitor, plus other attributes selected to manage catchment specific pressures/contaminants (eg, heavy metals).

    c. Requirements in the NPS-FM for councils to monitor/report and respond to a declining trend by determining the cause and assessing whether plan provisions

[63] Section 80A of the RMA.

[64] Section 80A(4)(b) of the RMA.

[65] Section 80A(4A) of the RMA.

[66] Under section 35(2)(ca) of the RMA.

are adequate to reverse the declining trend.[67]

d. Annual updates provided by Land Air Water Aotearoa (LAWA), which is a collaboration among various agencies including regional councils, StatsNZ and the Ministry for the Environment. The data utilised by LAWA reporting is a compilation of data collected by councils described in b) above.

132. Environmental impacts can take decades to manifest and observe, so other monitoring and evaluation approaches are needed to detect early signals, such as direct monitoring of policy and implementation progress. The National Monitoring System is used to collect information on the implementation of the RMA (which covers implementation of the NPS-FM), whereby information from local authorities is collected via targeted annual surveys. Periodic implementation review will be used to provide regular stocktakes and identify implementation issues,[68] along with material produced by the regional sector.[69]

133. The Government is also working on the wider RM system reform, and changes to other national direction instruments, along with some changes to the RMA, as expected as part of Phase 2 of that reform. Phase 3 is looking at reform of the whole RM system. As this reform work progresses, further consideration may be given to the NPS-FM and its role within the RM system. The proposals outlined in this interim RIS have been developed to align insofar as possible with the understood direction of Phase 3 of RM reform (a process to set environmental limits for freshwater), but the final result of that process may mean future review or change is needed to the NPS-FM to align and integrate it within that new system.

[67] Section CB in the 2017 NPS-FM or clause 3.30, 3.19.

[68] For example, "National Policy Statement for Freshwater Management: Implementation review", "Implementation of national freshwater policies and regulations - Review", "Essential freshwater progress report"

[69] For example, "Progress report: Regional planning implementation of the NPS-FM"

Appendix A: Diagrams showing National Objectives Framework (NOF) Process

These diagrams provide a high-level overview of the NOF process, and the cascade from vision-setting to methods. These are available within the Guidance on the National Objectives Framework of the NPS-FM guidance document.

Figure 2: High-level overview of the NOF process

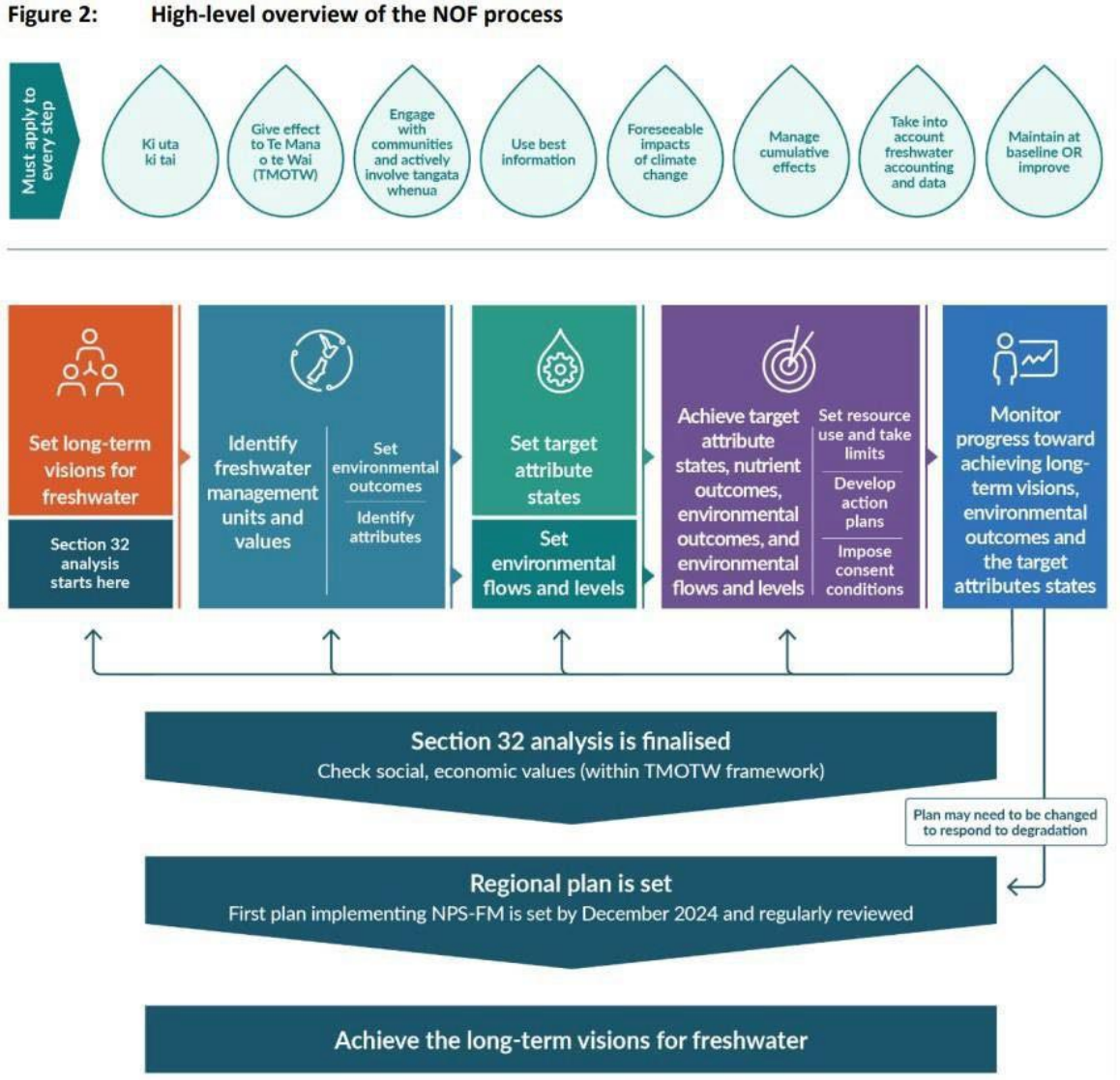
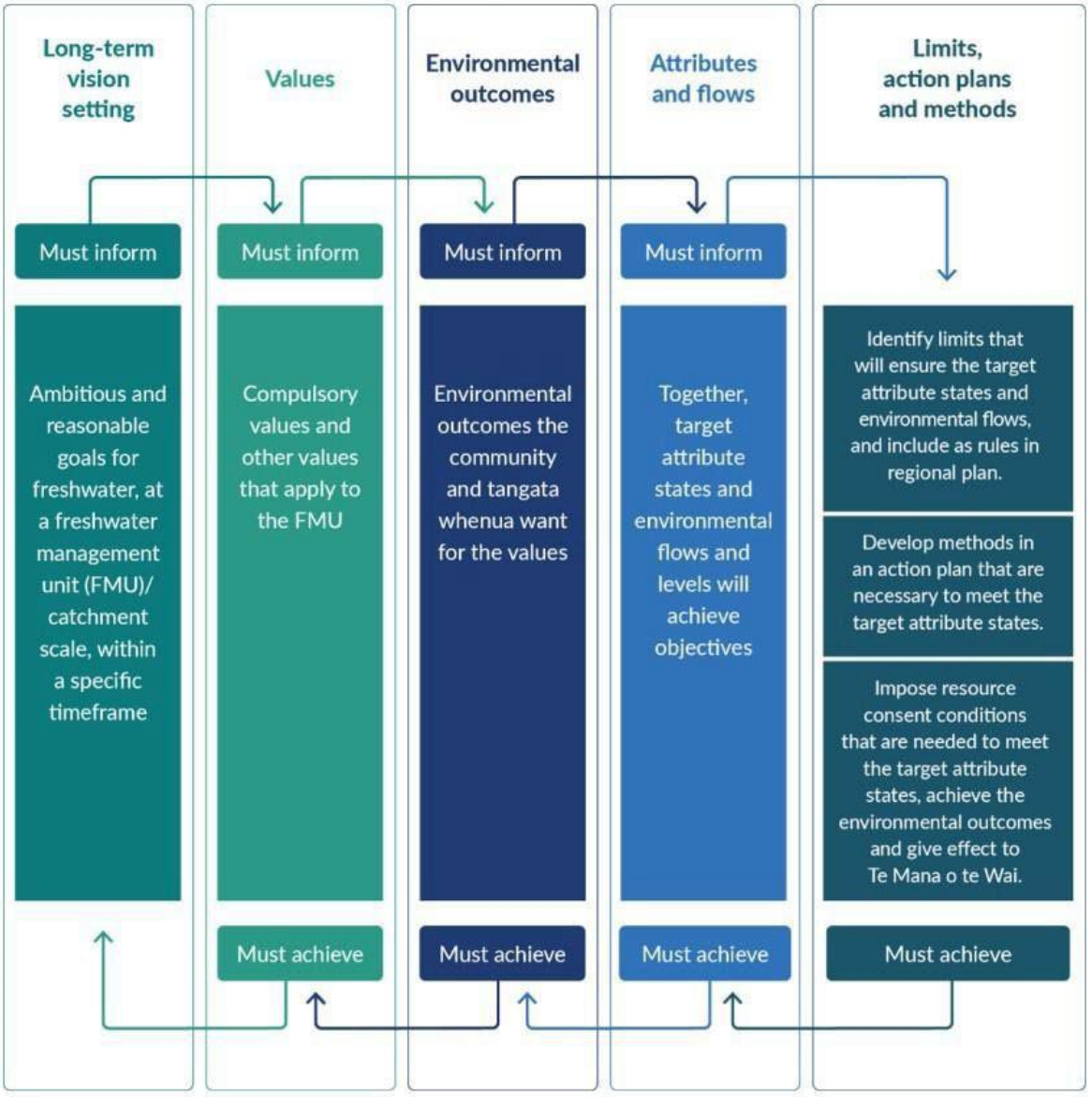


Figure 3: Freshwater NPS-FM cascade from vision setting to methods



Appendix B: Key differences between the 2017 and 2020 versions of the NPS- FM

Table 1 illustrates key differences between the 2017 and 2020 versions of the NPS-FM relating to Te Mana o te Wai, objectives and policies, improving water quality, and the number of compulsory values and attributes with the NOF.

Table 2 compares the attributes and how they are managed, in the 2017 and 2020 versions of the NPS-FM.

While many policies are common to both the 2017 and 2020 NPS-FM, these were substantially redrafted to provide additional clarity and consistency with other amendments (eg, the definition of ecosystem health, requirements to assess and report on progress, etc).

Table 1: Comparison of the 2017 and 2020 versions of the NPS-FM

2017	2020
The 2020 version included faster implementation timeframes	
• 2017 NPS-FM required regional councils to implement its policies no later than 2030 (technically 2025, unless that would result in lower quality planning or be impractical, in which case it allowed for 2030).	• 2020 RMA amendments introduced a specific planning process for freshwater –requiring notification of regional freshwater plans by the end of 2024 (now extended to 2027) • Note current deadlines for implementation are set via the RMA and its freshwater planning process, they are not in the NPS-FM itself.
The 2020 version increased the number of compulsory values from two to four	
• 2017 NPS-FM had two compulsory national values (ecosystem health and human health for recreation).	• 2020 changes introduced two more compulsory values (Threatened Species and Mahinga Kai) bringing the total to four compulsory values that apply everywhere – targets must be set on relevant attributes so that communities know if the value is being achieved (or not) and this can be tracked over time.
Increase in the number of compulsory attributes (some without national bottom lines)	
• 2017 had 9 attributes, predominantly focussed on water quality. • MCI[1]: ○ The 2017 NPS-FM already included MCI, as something that was to be monitored and would trigger action	• 2020 changes introduced new attributes (increasing from 9 to 22) almost entirely focussed on ecosystem health. • This included a stricter bottom line for the existing nitrate toxicity and ammonia toxicity attributes. • Key new attributes included sediment and MCI. **See Table 2, comparing**

(eg, to establish causes) when it reached a certain threshold.	**attributes in the NPS-FM 2017 and 2020.** • Note: ○ Not all new attributes have national bottom lines, eg, dissolved reactive phosphorus. ○ There is now a distinction between attributes requiring limits on resource use (rules in a plan), and others requiring action plans (which may or may not be in a plan, and can instead focus on investment and restoration etc. This approach is useful in situations where the attribute is impacted by something other than resource use/activities councils can control under the RMA). • MCI: ○ 2020 changes translated this into an action planning attribute and national bottom line.
Additional exceptions to national bottom lines were provided in 2020	
• Exceptions were provided for naturally occurring processes	• 2020 changes introduced additional exceptions to national bottom lines to provide for specified hydro schemes and vegetable growing areas. • Note the vegetable growing areas exception has subsequently been quashed through litigation.
The 2020 version introduced explicit requirements to manage nutrients in relation to other affected attributes	
• Note it was always implicit that councils/communities would manage nutrients in order to achieve desired outcomes for an affected attributes.	• 2020 changes introduced a process requiring councils/communities to determine what nutrient concentrations are needed to achieve desired outcomes for affected attributes.
Clearer requirements to maintain or improve water quality at current state (rather than within a band range).	
• The 2017 NPS-FM required regional councils to at least maintain water quality *within attribute bands* (ie,	• 2020 changes required regional councils to at least maintain current state as at 2017 levels (this introduced the concept of "baseline state"). This is

there was room for degradation within a band). • This was a change from the 2014 version which required maintaining at the current state and did not allow movement within a band.	supported by related requirements to monitor trends and respond to degradation. • This goes back to the 2014 approach of maintaining a specific measure at a point in time/not allowing degradation within a band.
The 2020 version includes detailed direction on how to give effect to Te Mana o te Wai (TMOTW)	
• 2017 NPS-FM included TMOTW as a statement of national significance, describing the concept and its elements at a high level. This was supported by a new Objective AA1 and Policy AA1 directing councils to *consider and recognise* TMOTW by making or changing regional policy statements and plans.	• 2020 changes provided more specific direction, including a hierarchy of obligations, a process for working out what that means locally, and that councils *must give effect to it*. • This is supported by additional direction on setting long term visions, actively involving tangata whenua, transparent decision making, and use of best information.

Table 2: Comparison of attributes in the 2017 and 2020 versions of the NPS-FM

	2020 NPS-FM attributes	Included in 2017 NPS-FM?	Bottom line in 2017 NPS-FM?	Bottom line in 2020 NPS-FM?
Appendix 2A – Attributes requiring limits on resource use	Table 1 – Phytoplankton (trophic state)	yes	yes	yes
	Table 2 – Periphyton (trophic state)	yes	yes	yes
	Table 3 – Total nitrogen (trophic state)	yes	yes	yes
	Table 4 – Total phosphorus (trophic state)	yes	yes	yes
	Table 5 – Ammonia (toxicity)	yes	yes	yes (stricter)
	Table 6 – Nitrate (toxicity)	yes	yes	yes (stricter)
	Table 7 – Dissolved oxygen (below point sources)	yes	yes	yes
	Table 8 – Suspended fine sediment *(attribute unit = visual clarity (metres), median figures only provided in cells to the right)*	no	N/A	yes
	Table 9 – Escherichia coli (E. coli)	yes	no	no
	Table 10 – Cyanobacteria (planktonic)	yes	yes	yes
Appendix 2B – Attributes requiring action plans	Table 11 – Submerged plants (natives)	no	N/A	yes
	Table 12 – Submerged plants (invasive species)	no	N/A	yes
	Table 13 – Fish (rivers)	no	N/A	no
	Table 14 – Macroinvertebrates (1 of 2)	no (but was included as mandatory monitoring	-	yes (stricter)

Appendix 2B – Attributes requiring action plans		method with requirements to respond to a degraded state comparable to the current bottom line)		
	Table 15 – Macroinvertebrates (2 of 2)	no (but was included as mandatory monitoring method with requirements to respond to a degraded state comparable to the current bottom line)	-	yes (stricter)
	Table 16 – Deposited fine sediment *(Numeric attribute state by deposited sediment class, median figures only provided in cells to the right)*	no	N/A	yes
	Table 17 – Dissolved oxygen	no	N/A	yes
	Table 18 – Lake-bottom dissolved oxygen	no	N/A	yes
	Table 19 – Mid-hypolimnetic dissolved oxygen	no	N/A	yes
	Table 20 – Dissolved reactive phosphorus	no	N/A	no
	Table 21 – Ecosystem metabolism (both gross primary production and ecosystem respiration)	no	N/A	yes
	Table 22 – Escherichia coli (E. coli) (primary contact sites)	no (note the **NPS-FM 2014** did include a very similar attribute that applied everywhere and had a more permissive bottom line)	N/A	yes

Appendix C: Replacement of National Policy Statement for Freshwater Management 2020: Interim Treaty Impact Analysis

The Interim Treaty Impact Analysis for the freshwater package can be accessed here.