



NBE provisions relating to RMA s70 and WCO provisions and update on Rakaia WCO declaratory proceedings.

Date Submitted:	9 May 2023	Tracking #: BRF-3141
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Delete/add Ministers as appropriate	Action sought:
To/CC Hon David PARKER, Minister for the Environment	For noting only.

Actions for Minister's Office Staff	Minister to note the information provided in this aide memoire.
Number of appendices and attachments #2	Appendix 1: s70 RMA and cl118 NBE Appendix 2: WCO provisions

Ministry for the Environment contacts

Position	Name	Cell phone	1st contact
Principal Author	Rebecca Hare		
Responsible Manager	Macaela Flanagan	9(2)(a)	
Director	Sara Clarke	021 708 305	✓

NBE provisions relating to RMA s70 and WCO provisions and update on Rakaia WCO declaratory proceedings

Purpose

1. Out of scope [redacted]
[redacted]
[redacted]
- b. Declarations to the Environment Court relating to the Rakaia Water Conservation Order (WCO).
2. Out of scope [redacted]
[redacted]
3. Out of scope [redacted]
[redacted]
[redacted]; and
- c. an update on the Rakaia WCO declaratory proceedings.

Section 70

9(2)(h) [redacted]

[redacted]

[redacted]

[redacted]

9(2)(h) [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

WCO provisions

BRF-2808 and BRF-2948

- 11. You are currently party to Environment Court declaratory proceedings in Canterbury.

9(2)(h) [Redacted]

12. Previous briefings BRF-2808 and BRF-2948 summarised Environment Canterbury's (ECan) declarations to the Environment Court, and other parties⁵ alternative declarations, seeking to clarify roles and responsibilities in relation to the monitoring and enforcement of the National Water Conservation (Rakaia River) Order 1988 (Rakaia WCO) and sought your direction on whether to join declaratory proceedings.^{9(2)(h)} [redacted]. The appropriate documents have since been filed by Crown Law.

Out of scope [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

⁵ North Canterbury Fish and Game Council, Environmental Defence Society Incorporated, The New Zealand Federations for the Freshwater Anglers Incorporated. Following BRF-2948 the New Zealand Salmon Anglers Association Incorporated and Future Rivers Trust (jointly) and Manawa Energy also filed to join proceedings.

Out of scope [redacted]

Out of scope

[Redacted]

[Redacted]

[Redacted]

[Redacted]

9(2)(h)

[Redacted]

[Redacted]

[Redacted]

Out of scope

9(2)(h)


Update on Rakaia WCO declaratory proceedings

23. Crown Law appeared at the pre-conference hearing on 25 April 2023 on your behalf alongside the other parties of the declaratory proceedings. During this meeting, the parties were not able to resolve what they wanted to do with the declarations (large number, some very similar), but agreed the next step is to have some facilitated conferencing. This will likely occur in the next couple of months. Crown Counsel will attend the conference on your behalf.
24. The Judge assigned to the case is Judge J E Borthwick. Judge Borthwick has directed Barrister Stephen Christensen as special advisor to assist with the conferencing (subject to any objections or conflicts of interest with the parties).
25. In the lead up to proceedings, officials are working with MfE scientists to establish a position on the technical matter relating to the Lake Coleridge warehouse stored water approach. Officials are also in the process of obtaining archived material relating to the original Rakaia WCO and the 2013 amendments, which will assist in understanding the historical background context.
26. A further briefing will be provided in the coming months which will seek direction on how we present evidence.

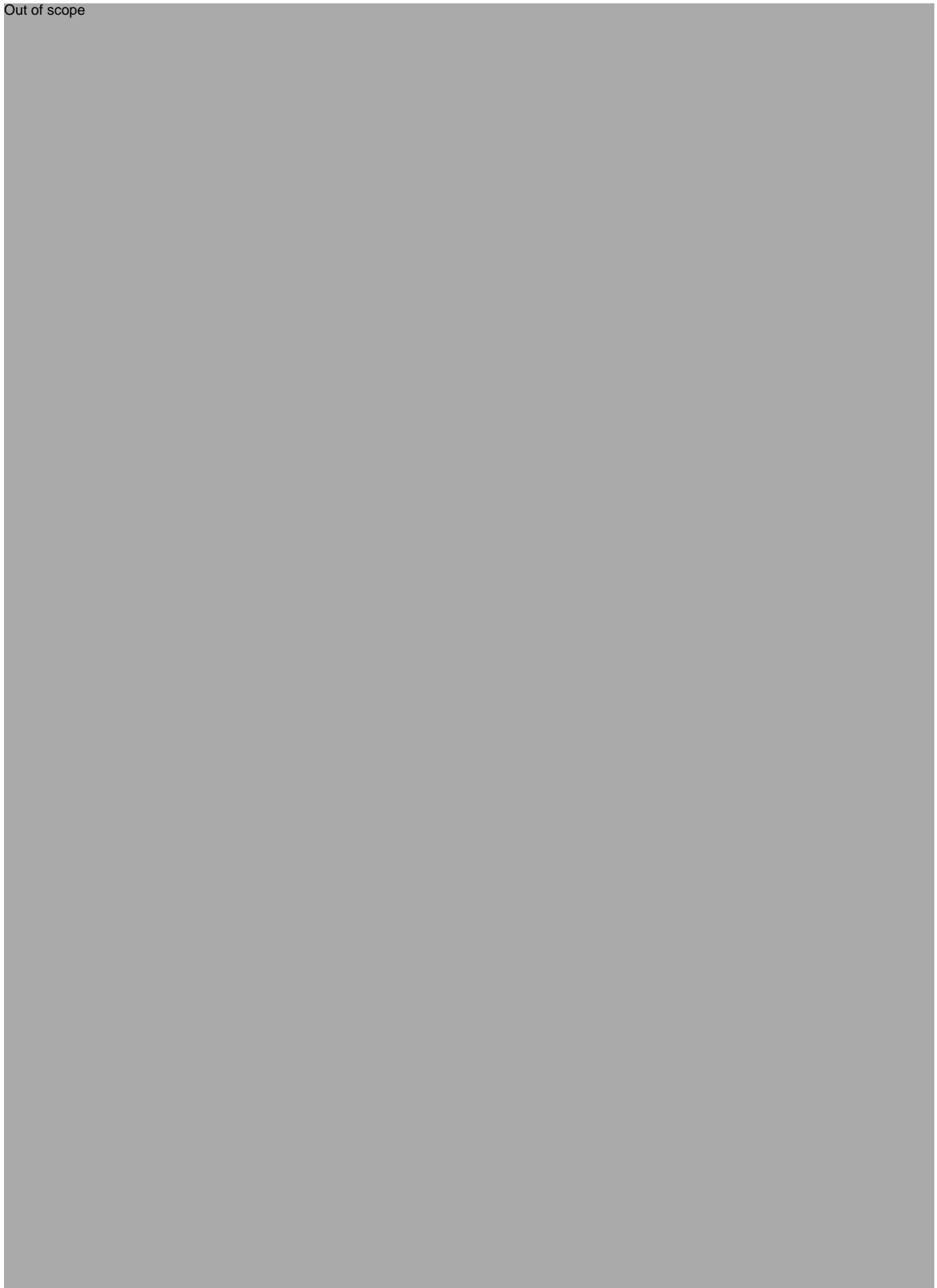
Next Steps

27. We will continue to work with Crown Law in the lead up to the Rakaia WCO Environment Court proceedings and update you regularly throughout the process.

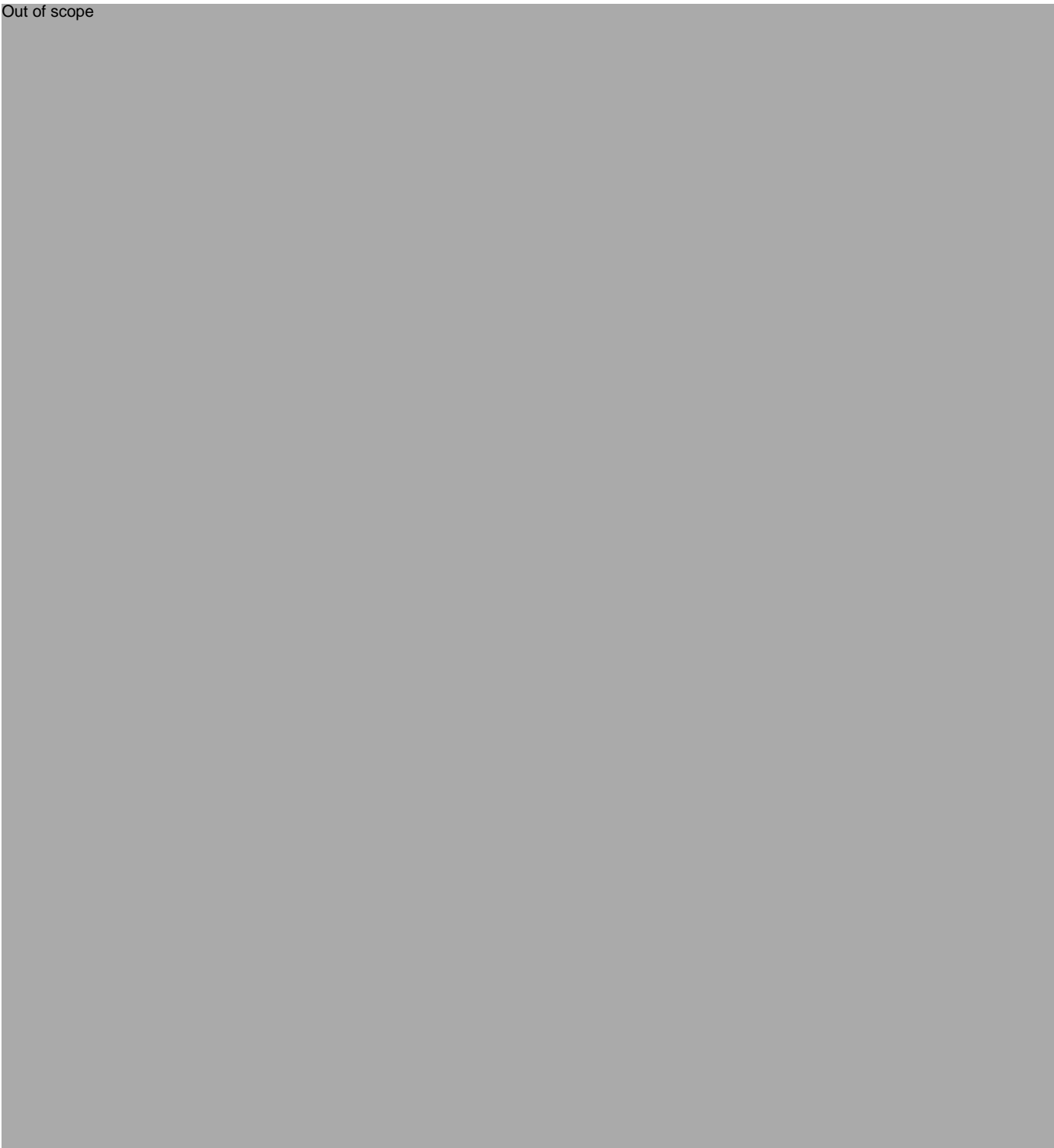
Signature

Sara Clarke Director - Implementation	
Date:	8 May 2023

Out of scope



Out of scope



Out of scope

