



PROACTIVE RELEASE COVERSHEET

Minister	Hon Chris Bishop Hon Todd McClay Hon Andrew Hoggard	Portfolio	Minister Responsible for RMA Reform Minister of Agriculture Associate Minister of Agriculture
Name of package	Progressing changes to freshwater management	Date to be published	05/05/2026

List of documents that have been proactively released

Date	Title	Author
23 October 2024	Cabinet paper: Progressing changes to freshwater management	Ministry for the Environment and Ministry for Primary Industries
29 October 2024	Cabinet Minute of Decision (CAB-24-MIN-0413.01)	Cabinet Office

Information redacted **YES**

Any information redacted in this document is redacted in accordance with the Ministry for the Environment's policy on proactive release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Summary of reasons for redaction

Some information has been withheld from *Progressing changes to freshwater management* under Sections 9(2)(f)(iv) and 9(2)(h) of the Official Information Act to protect matters still under consideration and legal privilege.

Some information has been withheld from the Cabinet minute under Section 9(2)(f)(iv) of the Official Information Act to protect matters still under consideration and legal privilege.

In-Confidence

Office of the Minister Responsible for RMA Reform

Office of the Minister of Agriculture

ECO - Cabinet Economic Policy Committee

Progressing changes to freshwater management

Proposal

- 1 This paper seeks agreement to proposals to replace the National Policy Statement for Freshwater Management 2020 (NPS-FM) for targeted engagement as part of the national direction programme. The paper also seeks agreement to the approach to engaging with Māori, including on broader reforms affecting freshwater.

Relation to government priorities

- 2 The proposals support coalition agreement commitments to replace the NPS-FM and National Environmental Standards for Freshwater 2020 (NES-F); rebalance Te Mana o te Wai, to better reflect the interests of all water users (National Party/ACT New Zealand and National Party/New Zealand First Coalition Agreements); and allow councils more flexibility in how they meet environmental limits under the NPS-FM (National Party/ACT Coalition Agreement).

Executive Summary

- 3 This Government is taking a three-phased approach to reforming the resource management (RM) system. The NPS-FM review sits in phase 2.
- 4 All three Coalition Parties campaigned on replacing the NPS-FM. In replacing the NPS-FM we want to remove unnecessary cost, complexity and rigidity, whilst improving freshwater health for the benefit of all New Zealanders. This is well-aligned with the direction of changes in phase 3 of RM reform – a more enabling RM system with more certainty, fewer consents that are approved faster, and that is less litigious.
- 5 The 2017 version of the NPS-FM provided a better balance between environmental and economic goals than the current NPS-FM. We propose taking it as a starting point for targeted engagement for this review, with some changes to deliver our objectives, and to ensure it remains up-to-date. This approach will enable us to deliver the replacement NPS-FM by mid-2025. Changes are also proposed to other freshwater regulations (particularly the NES-F) to align with our objectives.
- 6 Councils have a strong interest in this work. The Government is committed to engaging and working with councils over the course of the freshwater reform programme.
- 7 We are also seeking agreement to work with Māori on the NPS-FM and on wider reforms affecting freshwater, and for the Minister Responsible for RMA Reform to explore establishing a freshwater forum to facilitate Māori engagement with the Crown on the freshwater work programme (including in relation to phase 3).
- 8 Changes to freshwater policy are of significant interest to Māori and raise broader issues around progress on Crown commitments on freshwater rights and interests recorded in the Supreme Court in 2013.

9 s 9(2)(f)(iv)

10 We propose a collaborative approach to working with Māori, underpinned by a set of parameters. The parameters we are proposing comprise core Crown positions maintained by previous Governments (such as 'no-one owns water') with some process-based commitments recognising the context has evolved, such as to uphold the Crown's statements recorded in the Supreme Court.

11 The proposed scope includes the NPS-FM and key reforms, noting that some dimensions of rights and interests (such as governance, management, and allocation) will take longer to progress.

12 Following targeted engagement, with key stakeholders, councils, and Māori a paper would be brought to Cabinet to seek agreement on NPS-FM proposals for public consultation in early 2025. An update on the engagement approach with Māori would also be provided.

Background

The NPS-FM review fits within phase two of resource management reform

13 The NPS-FM review sits within the national direction programme in phase 2 of the resource management reform. National direction instruments are being progressed in packages for decision-making, to be delivered by mid-2025.

14 Cabinet has agreed that targeted engagement with key stakeholders and Māori should be undertaken ahead of final Cabinet decisions on proposals to be included in the national direction programme [ECO-24-MIN-0112 refers].

The NPS-FM is central to the freshwater management system

15 The NPS-FM is an important driver of freshwater management in New Zealand. The first NPS-FM was made in 2011 in the context of growing demand for freshwater resources and evidence of declining water quality in some water bodies. Its aim was to provide a nationally consistent framework for freshwater management while providing an appropriate level of regional flexibility. The NPS-FM has since been revised in 2014, 2017 and 2020.

16 Te Mana o te Wai is articulated as the fundamental concept of the NPS-FM 2020. The concept includes the hierarchy of obligations (set out below) and six principles of mana whakahaere, kaitiakitanga, manaakitanga, governance, stewardship, and care and respect¹. Policy 1 of the NPS-FM requires freshwater to be managed in a way that gives effect to Te Mana o te Wai².

17 The NPS-FM 2020 contains one objective with the hierarchy of obligations, which is ensuring natural and physical resources are managed in a way that prioritises:

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

¹ These principles are defined at 1.3(4) of the NPS-FM 2020.

² A set of directions to councils are provided as to how the concept is to be implemented at clause 3.2 of the NPS-FM.

- b) *second, the health needs of people (such as drinking water), and*
- c) *third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future*³.

- 18 The NPS-FM 2020 requires councils to set environmental limits through three key provisions:
- Maintain or improve – when councils set targets, they must *at least* aim to maintain water quality, or can choose to improve it over time.
 - National bottom lines (NBLs) for some attributes – when councils set targets they must be at, or above, the NBLs.
 - Councils' choice, including on targets, following engagement with communities and tangata whenua.
- 19 There is no set timeframe for when targets must be achieved. This is a choice for councils along with communities and tangata whenua. The NPS-FM 2020 includes direction that timeframes must be 'ambitious but reasonable'.
- 20 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 Crown commitments recorded in the Supreme Court in 2013 regarding Māori freshwater rights and interests (outlined in the section 'Approach to engagement with Māori on the NPS-FM and wider reforms').

Proposed scope of freshwater policy proposals

- 21 The Government is committed to improving freshwater health for the benefit of all New Zealanders. Our key concern is that the current national direction on freshwater has become too complex to implement and impedes other key outcomes that are important to New Zealanders from being achieved.
- 22 In replacing the NPS-FM, we want to rebalance Te Mana o te Wai and clarify how it operates, as well as recognise the Government's wider priorities for the primary sector, housing and infrastructure. These objectives will be achieved by reviewing the pace and ambition for achieving objectives, removing unnecessary cost, complexity and rigidity, providing more flexibility for local decision-making at a regional and catchment scale (such as in relation to the NPS-FM values and attributes), and enabling specific activities such as water storage and vegetable growing.
- 23 We propose to take the 2017 NPS-FM as a starting point for targeted engagement. We consider this version was more balanced, and better integrated environmental and economic goals than the current NPS-FM.
- 24 Some changes are needed to the 2017 NPS-FM to deliver our objectives and ensure it remains up to date. We propose exploring the following matters through this engagement:
- Te Mana o te Wai provisions

³ Clause 2.1 of the NPS-FM 2020.

IN CONFIDENCE

- additional objectives and policies to address Government priorities
 - provisions from the NPS-FM 2020 that improve clarity, promote an enduring NPS and assist implementation of the new 2025 NPS-FM (including values and attributes), and
 - policies on wetlands, fish passage and river extent that support the NES-F.
 - We also propose testing proposals for activity-based regulations through this engagement, These are new objectives, policies and rules to enable water storage and commercial fruit and vegetable growing, and further changes to the Resource Management (Stock Exclusion Regulations 2020) and to the NES-F (farmer facing regulations).
- 25 Changes to freshwater policy generate very high public interest and, at a minimum, invoke RMA consultation requirements (including with Māori), and obligations in some Treaty settlements.
- 26 In taking the NPS FM as it was at 2017 as the starting point for engagement, we are mindful that consultation requires an open mind and that feedback will need to be taken into account.
- 27 The proposed targeted engagement, with key stakeholders, councils, and Māori will ensure that policy decisions brought to Cabinet for public consultation are carefully tested and robust.

Approach to engagement with Māori on the NPS-FM and wider reforms

- 28 Many iwi and Māori groups have expressed concern and/or strong opposition to changes to the NPS-FM, articulating that Te Mana o te Wai is of fundamental importance. Engagement is being sought to find solutions, noting Māori have interests in economic as well as environmental outcomes, including by the National Iwi Chairs' Forum (Pou Taiao), Te Tai Kaha, and individual iwi.
- 29 In engaging on the NPS-FM, Māori are likely to want to discuss other reforms affecting freshwater and raise broader issues around progress on previous Crown commitments on freshwater rights and interests. There is widespread frustration at the lack of substantive engagement to date on freshwater. We need to consider our approach to engagement with Māori in this context.

Māori freshwater rights and interests have been recognised and progressed by the Crown

- 30 The Crown acknowledged that Māori have rights and interests in freshwater and geothermal resources in proceedings in 2012-2013⁴. The Crown position recorded by the Supreme Court in 2013 included that any recognition must “involve mechanisms that relate to the on-going use of those resources, and may include decision-making roles in relation to care, protection, use, access and allocation, and/or charges or rentals for use”⁵.

⁴ The proceedings related to the Crown's policy to sell up to 49 percent of shares in four state-owned power companies.

⁵ *New Zealand Māori Council v Attorney General* [2013] NZSC 6, [2013] 3 NZLR 31 at [145].

- 31 The Crown subsequently confirmed in the Supreme Court that it was “open to discussing the possibility of Māori proprietary rights in water, short of full ownership”.⁶ These commitments were influential in the outcome of litigation, which was in the Crown’s favour. Successive governments have since been addressing how to put the commitment into practice.
- 32 While there are a range of ways that Māori aspirations with respect to freshwater are articulated, they have been summarised as having the following four dimensions: (1) improving water quality and the health of ecosystems and waterways, (2) governance / management / decision making, (3) recognition of customary relationships, and (4) economic interests and access to water⁷.
- 33 The Crown has progressed rights and interests to date through Treaty settlements with redress for freshwater bodies (such as the Waikato and Whanganui river settlements), RMA provisions enabling agreements between councils on functions relating to natural resources⁸, and provisions in the NPS-FM since 2011 (including Te Mana o te Wai). The issue of economic access has not materially progressed, despite periods of collaborative work with Māori by successive governments.
- 34 As well as changes to the NPS-FM, current Government reforms that directly and indirectly intersect with freshwater rights and interests include: the Fast Track Approvals Bill, Local Water Done Well, Electrify NZ proposals (such as consent duration for renewable energy generation), and national direction that has interlinkages with the NPS-FM (eg, infrastructure).
- 35 Phase 3 of RM reform will need to address fundamental issues around control and use of water, raising wider rights and interests including areas such as governance and allocation that have historically proved challenging.

Factors in considering an engagement approach

- 36 There has historically been a shared interest between the Crown and Māori in finding tenable and long-term solutions in the management of freshwater resources.⁹ In the current context, shared interests can be seen in a robust RM system where the foundations are less contested and more certain; durable freshwater solutions that address economic as well as environmental outcomes (a consistent message from Māori is that they see economic development as important too, having significant primary sector interests and enterprises); and unlocking allocation reform (there are potential economic benefits for Māori and non-Māori in new approaches and tools).
- 37 Progress on wider rights and interests, including on governance, management and allocation, have proved challenging under previous governments.
- 38 Engaging on ways to achieve the Government’s objectives that also address wider rights and interests will not be easy. However, if it could be navigated successfully, it may achieve better outcomes. s 9(2)(f)(iv)

⁶ *New Zealand Māori Council v Attorney General* [2013] NZSC 6, [2013] 3 NZLR 31 at [101].

⁷ Developed by Freshwater Iwi Leaders Group from hui on freshwater across New Zealand in 2014-15.

⁸ These include agreements between councils and iwi/hapū on involvement in RM decisions (Mana Whakahono a Rohe) under section 58M, and joint management of functions relating to natural resources under section 36B.

⁹ For example, the National-led Government in 2009 entered a joint communication and information exchange protocol with Freshwater Iwi Leaders Group that underpinned collaboration on freshwater reforms.

s 9(2)(f)(iv)

- 39 We propose an approach to engagement that involves working collaboratively with Māori across relevant reforms – some of which could be progressed in the short term, while some areas are more challenging and would take longer. The collaborative approach would involve good faith engagement focused on finding common ground and ways that progress can be achieved, while being clear that ultimately the Crown retains final decision-making on policy and legislation.

Proposed parameters to underpin engagement

- 40 We propose setting some parameters to underpin this engagement, building on previous Governments' approaches¹⁰. These could also include some process-based commitments in light of the evolving context and change in government, as follows:
- a commitment to uphold the Crown acknowledgement regarding Māori rights and interests in freshwater and geothermal resources as recorded in the Supreme Court in 2013
 - a commitment to good faith, open and transparent process with Māori in upholding this acknowledgment
 - the Crown position that no-one owns freshwater, including the Crown
 - there will be no national settlement of Māori claims to freshwater, although national-level tools may be useful
 - acknowledging that existing users also have interests that must be considered
 - acknowledging that, in finding solutions to some dimensions of rights and interests, the bigger questions (such as governance, allocation) will take time.
- 41 We consider these parameters reflect an appropriate approach by maintaining alignment with previous Crown commitments and providing space for common ground to be found.

Proposed collaborative approach to working with Māori on the NPS-FM and key reforms

- 42 We seek your agreement to work with Māori on key reforms at a strategic level designed in way that is productive and manageable on all sides, and for the Minister Responsible for RMA Reform to explore establishing a freshwater forum to facilitate Māori engagement with the Crown on the freshwater work programme (including in relation to phase 3).
- 43 There are a range of groups and interests. The Government has confirmed mutual priorities with National Iwi Chairs' Forum (Pou Taiao) of freshwater and RM reform. Te Tai Kaha and individual iwi such as Ngāi Tahu are seeking to work collaboratively with the Government. It may be possible to bring together a representative group to find some practical pathways.

¹⁰ See Appendix 1 for previous Governments' parameters.

- 44 Given the range of reforms underway that intersect with rights and interests, the scope of engagement could include:
- Immediate freshwater work programme: NPS-FM review plus other relevant policy areas (such as in the second RM Amendment Bill and the national direction programme). This could include, in addition to regulatory settings, exploring practical opportunities to make progress on the health of freshwater and its more efficient use, including potential pilot projects.
 - Preparing for phase 3 of RM reform and beyond: this could include engagement on wider rights and interests in freshwater, and potentially other resources. These would likely include economic interests (including allocation), and aspects of decision-making.

45 The engagement approach would be designed to ensure that RMA processes and relevant obligations in Treaty settlements and other arrangements are upheld.

s 9(2)(h)

[Redacted content]

Cost-of-living Implications

49 There are no direct cost-of-living implications associated with this paper.

Financial Implications

50 The costs associated with phase 2 of RM reform (which the NPS-FM review is part of) are being met from within current agency baselines [ECO-24-MIN-0112 refers]. The costs associated with the proposal to work collaboratively with Māori on

s 9(2)(h)

freshwater and other key reforms will depend on decisions on the future work programme.

Legislative Implications

51 This paper is initiating a process that will result in changes to secondary legislation.

Impact Analysis

Regulatory Impact Statement, Climate Implications, and Population Implications

52 There are no regulatory proposals in this paper, and therefore Cabinet's impact analysis requirements do not apply. A Regulatory Impact Statement (RIS), Climate Implications of Policy Assessment (CIPA), and population implications will be provided to Cabinet when policy decisions for public consultation are sought.

Treaty of Waitangi Impacts

53 A Treaty impact analysis will be included in the RIS that will be provided to Cabinet when policy decisions for public consultation are sought. Previous relevant Waitangi Tribunal findings from 2019 for the 2017 NPS-FM are provided in Appendix Two.

54 The proposed engagement will be designed to uphold Treaty settlements and other arrangements with obligations relating to management of freshwater and to changes to freshwater national direction (such as, for example, the Waikato, Waipā and Whanganui river settlements).

Human Rights

55 There are no direct human rights implications under the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993 resulting from this paper.

Use of External Resources

56 No external resources were used to prepare this paper.

Consultation

57 The following agencies have been provided with this paper; Department of Prime Minister and Cabinet, Office for Māori Crown Relations: Te Arawhiti, the Treasury, Te Puni Kōkiri, Ministry of Health, Department of Internal Affairs, Department of Conservation, and the Ministry of Housing and Urban Development.

Communications

58 Following Cabinet approval, we intend to make an announcement on the paper and its work programme.

Proactive Release

59 We intend to delay release of this paper until we have made an announcement on its content and work programme.

Recommendations

The Minister Responsible for RMA Reform and Minister of Agriculture recommend that the Committee:

Background

- 1 **note** that Government Coalition Agreements commit to replacing the National Policy Statement for Freshwater Management (NPS-FM) and National Environmental Standards for Freshwater (NES-F), rebalancing Te Mana o te Wai to better reflect the interests of all water users and allowing councils more flexibility in how they meet environmental limits under the NPS-FM
- 2 **note** that the NPS-FM review is within the national direction programme in phase 2 of the three-phase approach to reforming the resource management (RM) system to be delivered by mid-2025 [ECO-24-MIN-0112 refers]
- 3 **note** that Cabinet has agreed that targeted engagement with key stakeholders and Māori should be undertaken ahead of final Cabinet decisions on proposals to be included in the national direction programme [ECO-24-MIN-0112 refers]

Proposed scope of freshwater policy proposals

- 4 **agree** that the starting point for targeted engagement is the 2017 NPS-FM
- 5 **agree** that adjustments to the 2017 NPS-FM in the following areas be explored:
 - 5.1 Te Mana o te Wai provisions (including how it operates)
 - 5.2 additional objectives and policies to address Government priorities
 - 5.3 provisions from the NPS-FM 2020 that improve clarity, are enduring, and assist implementation (including values and attributes), and
 - 5.4 policies on wetlands, fish passage and river extent that supports the NES-F.
- 6 **agree** that targeted engagement also include the following proposals:
 - 6.1 new objectives, policies and rules to enable water storage and commercial fruit and vegetable growing
 - 6.2 further changes to the Resource Management (Stock Exclusion) Regulations 2020 and to the NES-F (farmer-facing regulations).
- 7 **note** that testing these proposals with regional councils will be important to support effective and efficient implementation.

Approach to engagement with Māori

- 8 **note** that, in addition to the NPS-FM, other reforms underway affecting freshwater are of significant interest to Māori and raise broader issues around Crown commitments on freshwater rights and interests in the Supreme Court in 2013
- 9 **agree** to a collaborative engagement approach with Māori across relevant reforms, noting that some may be able to be progressed in the short term, while others may be more challenging and take longer

10 **note** that this collaborative approach would involve good faith engagement focused on finding common ground and ways that progress can be achieved, while being clear that ultimately the Crown retains final decision-making on policy and legislation

11 s 9(2)(f)(iv)

[Redacted text block]

12 **agree** to the following underpinning parameters for this engagement, which are informed by and align with previous Governments' approaches with updated elements to reflect the current context:

- 12.1 commitment to uphold the Crown acknowledgement regarding Māori rights and interests in freshwater and geothermal resources as recorded in the Supreme Court in 2013
- 12.2 commitment to good faith, open and transparent process with Māori in upholding this acknowledgment
- 12.3 the Crown position that no-one owns freshwater, including the Crown
- 12.4 there will be no national settlement of Māori claims to freshwater, although national-level tools may be useful
- 12.5 acknowledging that existing users also have interests that must be considered
- 12.6 acknowledging that, in finding solutions to some dimensions of rights and interests, the bigger questions (such as governance, allocation) will take time.

13 **agree** that the scope of collaborative engagement include:

- 13.1 immediate freshwater work programme: including the NPS-FM review plus other relevant policy areas in the second RM Amendment Bill and the national direction programme)
- 13.2 preparing for phase 3 of RM reform and beyond - including engagement on wider rights and interests in freshwater.

14 **note** that the engagement approach would be designed to ensure that any RMA requirements (such as for changes to national direction) and relevant obligations in Treaty settlements and other arrangements are upheld

Other matters

- 15 **note** that following targeted engagement, a paper will be brought to Cabinet seeking policy decisions for the NPS-FM review to enable public consultation in early 2025 and providing an update on the wider engagement approach with Māori.

Hon Chris Bishop

Minister Responsible for RMA Reform

Hon Todd McClay

Minister of Agriculture

Appendix 1 Previous Governments' parameters for engagement on freshwater

- 1 In 2015, the National-led Government set five 'bottom lines' for freshwater [CAB Min (15)1/9 refers]:
 - no-one owns freshwater, including the Crown
 - there will be no generic share of freshwater resources provided for iwi
 - there will be no national settlement of iwi/hapū claims to freshwater
 - freshwater needs to be managed locally on a catchment-by-catchment basis within the national freshwater management framework, and
 - the next stage of freshwater reform will include national-level tools to provide for iwi/hapū rights and interests.

- 2 The Labour-led Government in 2018 reframed the Crown position with the following parameters [ENV-18-MIN-0032 refers]:
 - the Crown and Māori have a key shared interest in improving the quality of New Zealand's freshwater, including the ecosystem health of our waterways
 - the Crown and Māori have a shared interest in ensuring sustainable, efficient, and equitable access to and management of freshwater resources
 - no one owns freshwater – it belongs to everyone, and we all have a guardianship role to look after it
 - the Crown acknowledges that Māori have rights and interests in freshwater, including accessing freshwater resources to achieve their fair development aspirations for under-developed land
 - the Crown acknowledges that existing users also have interests that must be considered
 - the Crown will work with Māori and regional government to consider how, on a catchment by catchment basis, freshwater resources can be accessed fairly so as to achieve the development of under-developed land, based on the following principles:
 - the need to gather key catchment-level information on Māori land development opportunities and the current situation in those catchments in terms of water quality, water takes and existing capital investments
 - any change to existing allocation method is achieved in a way and at a pace that takes into account the interests of existing users and the public interest in the optimal use of the resource, and
 - the need to ensure that solutions for water meet sustainable limits for swimmability, ecological health and human health, being the values captured by 'Te Mana o te Wai'.

Appendix 2 Previous relevant Waitangi Tribunal findings from 2019 for the 2017 NPS-FM

1 In taking the 2017 NPS-FM as a starting point for targeted engagement, the following Waitangi Tribunal findings from 2019¹ are relevant:

- Regarding Māori rights and interests: “On balance, the 2017 amendments have improved the NPS-FM in Treaty terms but the amendments have some significant weaknesses. We find that the NPS-FM is not compliant with Treaty principles, and Māori continue to be prejudiced by the weakness of mechanisms for the inclusion of their values and interests in freshwater management.”
- Regarding water quality “[Nonetheless,] the freshwater quality standards set in the NPS-FM, as amended in 2017, are not yet adequate to provide for the Crown’s Treaty duty of active protection of freshwater taonga. The failure to provide for stock exclusion compounds the breach.”

¹ Waitangi Tribunal (2019) The stage two report on the National Freshwater and Geothermal Resources claim.



Cabinet

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Progressing Changes to Freshwater Management

Portfolios **RMA Reform / Agriculture**

On 29 October 2024, following reference from the Cabinet Economic Policy Committee (ECO), Cabinet:

Background

- 1 **noted** that Government Coalition Agreements commit to replacing the National Policy Statement for Freshwater Management (NPS-FM) and National Environmental Standards for Freshwater (NES-F), rebalancing Te Mana o te Wai to better reflect the interests of all water users and allowing councils more flexibility in how they meet environmental limits under the NPS-FM;
- 2 **noted** that the NPS-FM review is within the national direction programme in phase 2 of the three-phase approach to reforming the resource management (RM) system [ECO-24-MIN-0112], to be delivered by mid-2025;
- 3 **noted** that in June 2024, ECO agreed that targeted engagement with key stakeholders and Māori should be undertaken ahead of final Cabinet decisions on proposals to be included in the national direction programme [ECO-24-MIN-0112];

Proposed scope of freshwater policy proposals

- 4 **agreed** that the starting point for targeted engagement be the 2017 NPS-FM;
- 5 **agreed** that adjustments to the 2017 NPS-FM in the following areas be explored:
 - 5.1 Te Mana o te Wai provisions (including how it operates);
 - 5.2 additional objectives and policies to address Government priorities, while recognising and emphasising the need for local decision-making;
 - 5.3 provisions from the NPS-FM 2020 that improve clarity, are enduring, and assist implementation (including values and attributes);
 - 5.4 policies on wetlands, fish passage and river extent that supports the NES-F;

- 6 **agreed** that targeted engagement also include the following proposals:
 - 6.1 new objectives, policies and rules to enable water storage and commercial fruit and vegetable growing;
 - 6.2 further changes to the Resource Management (Stock Exclusion) Regulations 2020 and to the NES-F (farmer-facing regulations);
- 7 **noted** that testing the above proposals with regional councils will be important to support effective and efficient implementation;

Approach to engagement with Māori

- 8 **noted** that, in addition to the NPS-FM, other reforms underway affecting freshwater are of significant interest to Māori and raise broader issues around Crown commitments on freshwater rights and interests as recorded in the Supreme Court in 2013;
- 9 **agreed** to a collaborative engagement approach with Māori across relevant reforms, noting that some may be able to be progressed in the short term, while others may be more challenging and take longer;
- 10 **noted** that the collaborative approach outlined above would involve good faith engagement focused on finding common ground and ways that progress can be achieved, while being clear that ultimately the Crown retains final decision-making on policy and legislation;

11 s 9(2)(f)(iv) [Redacted]

- 12 **agreed** to the following underpinning parameters for this engagement, which are informed by and align with previous governments’ approaches with updated elements to reflect the current context:
 - 12.1 commitment to uphold the Crown acknowledgement regarding Māori rights and interests in freshwater and geothermal resources as recorded in the Supreme Court in 2013;
 - 12.2 commitment to good faith, and an open and transparent process with Māori in upholding this acknowledgment;
 - 12.3 the Crown position that no-one owns freshwater, including the Crown;
 - 12.4 all New Zealanders share an interest in freshwater and how it is accessed and managed;
 - 12.5 there will be no national settlement of Māori claims to freshwater, although national-level tools may be useful;
 - 12.6 acknowledging that existing users also have interests that must be considered;
 - 12.7 acknowledging that, in finding solutions to some dimensions of rights and interests, the bigger questions (such as governance and allocation) will take time;

- 13 **agreed** that the scope of collaborative engagement include:
- 13.1 the immediate freshwater work programme, including the NPS-FM review plus other relevant policy areas in the second RM Amendment Bill and the national direction programme);
 - 13.2 preparing for phase 3 of RM reform and beyond, including engagement on wider rights and interests in freshwater;
- 14 **noted** that the engagement approach would be designed to ensure that any RMA requirements (such as for changes to national direction) and relevant obligations in Treaty of Waitangi settlements and other arrangements are upheld;

Other matters

- 15 **noted** that following targeted engagement, the Minister Responsible for RMA Reform and Minister of Agriculture intend to report back to ECO seeking policy decisions for the NPS-FM review to enable public consultation in early 2025 and to provide an update on the wider engagement approach with Māori.

Rachel Hayward
Secretary of the Cabinet

Secretary's Note: This minute replaces ECO-24-MIN-0230. Cabinet agreed to add paragraph 12.4.
