

**Office of the Minister for
Office of the Minister for Primary Industries**

Chair

Cabinet Economic Growth and Infrastructure Committee

Freshwater: Amendments to the National Policy Statement for Freshwater Management 2014

Proposal

1. This paper seeks agreement to amend the National Policy Statement for Freshwater Management 2014 prepared under the Resource Management Act 1991 (RMA).
2. Subject to Cabinet agreement, the Minister for the Environment intends to recommend the amended National Policy Statement to the Governor General for approval.

Executive summary

3. We are improving our freshwater management system through a progressive package of freshwater reforms. The first step was creating the 2011 National Policy Statement for Freshwater Management (Freshwater NPS) which required councils to maintain or improve water quality by setting objectives and limits for fresh water. The next step in 2014, provided direction and support for councils on how to set freshwater objectives and limits through the national objectives framework.
4. We are now proposing amendments to the Freshwater NPS which recognise the importance people place on our water bodies by introducing national swimming targets of 80% of rivers and lakes swimmable by 2030 and 90% by 2040. Councils will be required to improve water quality for swimming and to specify how they will contribute to meeting the national targets.
5. We have estimated the costs of meeting the swimming targets at \$2 billion. This breaks down to just under \$100 million a year. We do not think that this figure, relative to the importance of improving water quality for human health, is a disproportionate expense. Also, improving water quality for human health is bound up with other actions to achieve better water quality. By doing this we achieve spin-off benefits for reducing other contaminants ie heavy metals and nutrients and, in the longer term protect the NZ Inc brand.
6. The costs will vary depending on the individual council response and over the timeframe it is applied. The cost of improving water quality for swimming will differ between rural and urban catchment because of the different pressures on water quality. Costs in rural catchments will arise from excluding stock from

waterways, planting riparian buffers and upgrading stock and sewage effluent treatment systems. Costs in urban catchments will arise from improving stormwater and wastewater infrastructure. The Ministry for the Environment will continue to monitor these costs.

7. We also wish to clarify some existing provisions of the Freshwater NPS such as how to 'maintain or improve' water quality, and provide for economic wellbeing.
8. The amendments build on the recommendations of the Land and Water Forum (LAWF) and are informed by advice from the Freshwater Iwi Leaders Group, the National Objectives Framework (NOF) Reference Group, and leading fresh water scientists and have been discussed with the regional sector group of Local Government New Zealand.
9. The final proposals presented here reflect the amendments we consulted on through the *Clean Water* discussion document. Some amendments have been refined as a result of submitter feedback. Notable changes include; the new requirement for councils to improve water quality in terms of *E.coli* to contribute to the national swimming targets; greater detail about how councils are to manage the nutrients nitrogen and phosphorus; a requirement to use the macroinvertebrate community index or MCI for monitoring ecosystem health, and changes to how we direct councils to consider economic wellbeing when setting freshwater objectives and limits. Many of these refinements result from additional feedback from the LAWF and government agencies.
10. We also propose a new change to the requirement to improve all water quality, in terms of *E.coli* and cyanobacteria, as a result of Ministers discussions during EGI on 2 August [EGI-17-MIN-2013 refers].
11. The Cabinet paper addresses the following amendments to the Freshwater NPS:
 - i. **Swimming** – this introduces a national target of 90% of rivers and lakes swimmable by 2040. Regional councils must set regional targets that will contribute to the national target. They must improve water quality for swimming by: stating improvements and timeframes in regional plans that will contribute to achieving regional targets; report on progress at five year intervals; and undertake surveillance monitoring of *E.coli* at swimming sites. Once regional targets are met water quality may then be maintained or improved. A new *E.coli* attribute table is introduced, based on the proportion of time water quality meets a threshold.
 - ii. **Economic well-being** – this amendment introduces two new objectives and two new policies that signal to regional councils that they should also provide for economic well-being when giving effect to the Freshwater NPS.
 - iii. **Monitoring-macroinvertebrates/flora and fauna and mātauranga Māori** – this change directs regional councils to monitor progress towards freshwater objectives and identified values using macroinvertebrates, indigenous flora and fauna and mātauranga Māori. It requires councils to establish methods for responding to monitoring and to make monitoring information publicly available.
 - iv. **Managing nutrients in rivers - nitrogen and phosphorus** – this amendment directs regional councils to specify in-stream concentrations for dissolved inorganic nitrogen (DIN) and dissolved inorganic phosphorus (DRP) in regional plans in order to achieve periphyton freshwater objectives, while also considering the effects on sensitive downstream receiving environments.

- v. **Maintain or improve** – this change clarifies that regional councils have to at least maintain overall water quality within the scale of a ‘freshwater management unit’. They will do this by ensuring freshwater objectives are set within the same attribute band as existing water quality or, so that the values they provide for will not be worse off if no bands are defined.
 - vi. **Infrastructure exceptions to national bottom lines** – this change clarifies the circumstances in which exceptions to national bottom lines can be used if listed in Appendix 3 of the Freshwater NPS - but does not list specific infrastructure.
 - vii. **Coastal lakes and lagoons** – this clarifies that the existing lake attributes (including national bottom lines) apply to coastal lakes and lagoons that intermittently open to the sea.
 - viii. **Recognising the national significance of fresh water and Te Mana o te Wai** – this clarifies the meaning of Te Mana o te Wai in freshwater management, including through a statement of national significance; a new objective and policy; and amending two value descriptions in Appendix 1 to reflect Te Mana o te Wai.
12. We undertook public consultation on the *Clean Water* package from February to April 2017. The submission period for the swimming proposals was extended to May 2017 to take advantage of additional technical analysis provided by NIWA.
 13. We received over 9000 submissions. This included 6591 template submissions prepared by campaigns from Forest and Bird, Greenpeace and the Green Party on various Freshwater NPS matters. Another 1787 submissions compiled by the group ‘ActionStation’ focussed largely on the swimmable rivers target. There were a total of 684 unique submissions received from councils, environmental groups, individuals, the business sector and the primary industries. In general submitters support the intent to improve water quality to be swimmable but had various concerns on the details.
 14. In our view, the final amendments presented here address many of the issues raised in submissions and, along with the Freshwater Improvement Fund and Stock Exclusion Regulations, will improve the water quality of our lakes and rivers.
 15. Further detail on the amendments is contained in the documents attached to this paper:
 - The National Policy Statement for Freshwater Management 2014 with amendments underlined (Appendix 1);
 - Submissions report and recommendations on proposed amendments to the National Policy Statement for Freshwater Management 2014 (Appendix 2);
 - Regulatory Impact Statement (Appendix 3);
 - The s32 evaluation and further evaluation under Section 32AA of the RMA (Appendix 4); and
 - The Gazette notice for the National Policy Statement for Freshwater Management Amendment Order 2017 (Appendix 5).
 16. It is our view that the amendments presented here align with the overall intent of the recent RMA reforms, of better alignment and integration across all resource management systems with improved Government direction and guidance.

Background

17. In February 2016 we released a consultation document *Next steps for fresh water (Next steps)*. *Next steps* introduced the Freshwater Improvement Fund, proposals for excluding stock from waterways, and amendments to refine the Freshwater NPS [EGI-MIN-0006].
18. We received 4,000 submissions on the proposals in *Next steps*. A major theme of submissions was people's desire for lakes and rivers to be "swimmable" even though this was not proposed at that time. For example, around 55% of submissions to *Next steps* requested a change to the national bottom line from wading to swimming [CAB-17-Min-0017].
19. We asked the Land and Water Forum to consider how the Freshwater NPS could better reflect community aspirations around swimmable rivers and lakes. Their view was that we should recognise New Zealanders' aspirations for primary contact in lakes and rivers and recommended changes to the Freshwater NPS to achieve that. The Freshwater Iwi Leaders Group similarly expressed the view that we should aim for lakes and rivers to be suitable for swimming, even as a long-term aspiration.
20. In July 2016 we sought further comments from iwi and regional councils on whether the Freshwater NPS should address iwi/hapū and community aspirations to work towards improving the suitability of lakes and rivers for swimming. Iwi were supportive, while the responses from regional councils were mixed. Some councils wanted more time to be able work with their communities to identify where water should be managed for swimming.
21. We followed this in February 2017 with public consultation via the *Clean Water* discussion document. Significantly, we proposed a national target of 90% of rivers and lakes swimmable by 2040 with additional changes to reflect people's aspiration for swimmable water quality [CAB-17-MIN-0017 refers]. We also proposed refinements to existing requirements in the Freshwater NPS.
22. The proposals generated a great deal of interest. Specifically, submitters were concerned that certain aspects of the swimming proposals were not as stringent as current settings in the Freshwater NPS. Additional technical/scientific material clarified some of the more detailed aspects of the proposal and addressed concerns raised by submitters. With regard to the other proposals, there were a range of views expressed and, in many cases where submitters provided viable options we have incorporated these into the proposed amendments.

Amendments to the National Policy Statement for Freshwater Management

23. There are eight key themes of proposed amendments to the Freshwater NPS:
 - I. National swimming targets - changes to monitoring/reporting on swimming
 - II. Economic wellbeing
 - III. Monitoring-macroinvertebrates/flora and fauna and mātauranga Māori
 - IV. Managing nutrients in rivers - nitrogen and phosphorus
 - V. Maintain or improve overall water quality
 - VI. Infrastructure exceptions to national bottom lines

- VII. Coastal lakes and lagoons
- VIII. The national significance of fresh water and Te Mana o te Wai.
24. The following sections of the Cabinet paper discuss each of the themes in turn. Consultation has resulted in some changes to the amendments as first set out in *Clean Water*, these are described in detail below. The text of the amendments as they will appear in the Freshwater NPS is provided in Appendix 1.
25. A regulatory impact statement and an evaluation of benefits and costs have been prepared on the amendments (see Appendices 3 and 4 respectively).

Policy

National swimming targets and changes to monitoring and reporting on swimming

26. Consultation on the *Next Steps* discussion document in 2016 attracted a large number of submissions on the issue of swimming. The feedback showed:
- the public had a low level of confidence that fresh water would be managed in a way that improves quality to a swimmable standard – generally citing references to secondary contact and the national bottom line for *E.coli*; and
 - swimmability was seen as a binary issue – that a river or lake is either suitable for swimming or not.
27. The Freshwater NPS currently sets the national bottom line for human health for recreation at a ‘moderate level of risk’ when boating or wading. We want to address the ongoing mistaken public perception that the national bottom line is a ‘goal’ which rivers and lakes can be degraded down to, and shift the focus towards making feasible improvements to water quality that mean more rivers and lakes will be swimmable more often. We believe that the Freshwater NPS should reflect the aspirations that New Zealanders have for their water bodies.
28. In order to achieve that, the swimming package is composed of three complementary parts:
- (a) A national target to improve how often rivers and lakes are swimmable of 90% by 2040; the swimmable standard is defined according to the proportion of time water exceeds a specific concentration of *E.coli* (and cyanobacteria in lakes).
 - (b) Maps illustrating the current state of swimming in rivers and lakes, at a national scale, using the new time-based swimming standard.
 - (c) Amendments to the Freshwater NPS to support the national target through:
 - i. Clearly stating the Government’s swimming targets in the Preamble and a new Appendix 6. Regional council requirements to help achieve the targets are contained in an objective, and new policies;
 - ii. The objective is to improve water quality in all freshwater management units so they are suitable for swimming (‘primary contact’) more often; unless further improvement is not possible due to naturally occurring processes, then it must at least be maintained¹;

¹ Note that further changes to the objective “to improve” are proposed as a result of discussions at EGI on 2 August 2017- these are discussed in paragraph 33 overleaf.

- iii. We propose a new policy which requires councils to develop draft regional targets for contributing to the national swimming target by March 2018 and final targets by December 2018.
 - iv. A second new policy requires councils to identify in regional plans all rivers (fourth order² or more), lakes (with a perimeter more than 1.5 kilometres), and any other sites that are used for primary contact eg swimming; then state what improvements (including timeframes) will be made so that these are suitable for swimming more often and contribute to the regional targets (when these have been developed – see below);
 - v. We consulted on, and propose replacing the existing attribute table for *E.coli* with a new attribute table measuring the proportion of time water quality exceeds specific concentrations (the swimming standard used for the national target and maps) and removing the national bottom line for ‘boating and wading’ and all references to ‘secondary contact’; and
 - vi. We propose a requirement for councils to monitor weekly (and publicly report when *E.coli* counts are exceeded) using a time-based *E.coli* attribute table. This is the same methodology used by the swimming maps (including the frequency of sampling and the percentage of time each water body is swimmable).
29. The swimming proposal garnered a great deal of media attention. We subsequently released further technical /scientific supporting material and extended the submission date on the swimming proposals. This was partly successful in addressing submitter confusion relating to the new *E.coli* attribute table in particular. Following consultation, we have introduced new requirements to clarify how councils are to contribute to achieving the targets. These are discussed in detail below.
- i. Swimming - the national target*
30. We consulted on a national target of 90% of rivers and lakes to be swimmable by 2040 with an interim target of 80% to be swimmable by 2030. The targets are further detailed in new Appendix 6 of the Freshwater NPS. The targets are supported by changes to how the swimability of rivers and lakes is assessed – that is, on the *amount of time* they are suitable for swimming, rather than the binary “suitable” or “not suitable”.
31. The target applies, and will be met by improvements to, rivers defined as fourth order or more and lakes with a perimeter of 1.5km or more. The target is supported with national and regional maps that set out current *E.coli* levels in rivers, and toxic algae in lakes, and how those levels affect where and when people can swim.
32. The maps are complemented by the *Land, Air and Water Aotearoa* platform (LAWA) – a website that shares up-to-date water quality information for freshwater monitoring sites across the country and is intended to provide advice to assess risk on a day-by-day basis.

² The term, *fourth order*, is derived from the New Zealand River Environment Classification (REC). Stream order is the numerical position of a tributary or section of a river within the entire network. Headwater streams are considered first order. When two tributaries of the same stream order meet, the order increases by one for the next downstream section.

ii. Swimming - a new objective to improve

33. The *Clean Water* discussion document proposed an objective to improve the quality of freshwater (in terms of *E.coli* and cyanobacteria) to apply to 'large rivers and lakes' so that they are suitable for swimming more often. Following consultation, we changed the objective so that it no longer applied only to 'large rivers and lakes', but required improvement across a 'freshwater management unit'³ (only for *E.coli* and cyanobacteria).
34. On further consideration, the objective to improve has been curtailed so that improvement must occur only until regional targets are met. Councils are required to set regional targets, in consultation with their communities, to help achieve the national target.
35. Councils have discretion in how they set their targets. A target might be an incremental change where water quality is already very good or, it can be a significant improvement where there is a clear opportunity to make gains (eg water treatment upgrade).
36. In some cases the stock exclusion regulations may be sufficient to achieve the improvements sought. Additionally, not every drop of water within a freshwater management unit has to improve – as long as there is an overall improvement.
37. This objective to require improvement is necessary to counter the potential for a decline in water quality in terms of *E.coli*.
38. The potential for decline arises because the new time-based *E.coli* attribute table does not have a national bottom line.⁴ We removed the bottom line to shift the conversation away from a mistaken idea that “wadeable” is the Governments acceptable standard for recreation, and the binary perception that water either is, or is not, suitable to swim in.
39. We also proposed changes to how to determine if water was being “maintained”. We proposed through *Clean Water* that “maintaining” water quality now means staying within an attribute band range (see paragraph 88). Removal of the bottom line for *E.coli*, coupled with our change to maintaining, means fresh water that is already in the bottom band could (in terms of *E.coli*) continue to degrade. The requirement to improve counters this.
40. Also, the national targets require water bodies of a specified size to improve (fourth order or above) but this poses a risk to small water bodies not captured by the target if we proceed only with the objective as consulted on – it has to be broader and apply across a freshwater management unit.
41. In our view, the new caveat that *E.coli* must only be improved until regional targets are met achieves the purpose of improving water quality so it is suitable more often for swimming, while not imposing an on-going and unrealistic burden on councils and communities.
42. The costs of requiring improvement in terms of *E.coli* cannot be accurately determined. This is because we are not specifying how much councils will need

³ Councils are required to group all water bodies in their regions into freshwater management units, based on catchments. This is the scale at which freshwater objectives and limits are set.

⁴ Currently, regional councils have to set all objectives at or above national bottom lines for quality. Any freshwater management units currently below a national bottom line will have to be improved to at least these national bottom lines.

to improve water quality by, where or when. The objective does not require a standard to be met, just relative improvement on the status quo. Councils can choose, with their communities, how much to improve and over what timeframes.

iii. Swimming – policies (new following Clean Water)

43. We have introduced a new policy that requires councils to establish regional targets. Councils must make draft targets available to the public by 31 March 2018, and final targets by 31 December 2018. In this way regional councils can determine with their communities how much water bodies will be improved taking into account local circumstances.
44. A second new policy requires councils to state what improvements will be made, and over what timeframe, to ‘specified rivers and lakes’⁵ and other identified primary contact sites, in order to meet regional targets. The regional target must contribute to achieving the national target. Once regional targets are met, then water quality must be at least maintained or improved.
45. We acknowledge that achieving the targets will require different responses from different councils, and this will depend on their capacity and the state of their waterbodies. We expect that efforts to achieve the targets should be reasonable and agreed by the community. Freshwater management units will only need to be improved until regional targets are met. Within these units, the specified rivers and lakes and primary contact sites will need to improve, while other water bodies can be maintained. Once regional targets are met, everything can be maintained, or improved if the community desires.
46. Concerns were raised during consultation by LAWF and others that the targets had no regulatory weight, and consequently there was no explicit requirement for councils to work towards them. Ministers and officials considered a range of options for how the requirement of councils to work towards the national targets could be managed. We consider the proposal above sets out this expectation, while providing a level of flexibility to councils as to where and by when improvements will be made.
47. The new proposal will require councils to report on improvements and their contribution to achieving the national swimming target at five yearly intervals. This is consistent with existing requirements to report on the state of the environment, and will give communities information to hold their councils to account.

iv. Swimming - a new E.coli attribute table

48. We consulted on replacing the existing attribute table for *E.coli* in order to help councils achieve the national targets. The proposed *E.coli* attribute table has bands that vary according to the amount of time the water quality meets the swimmable threshold.
49. The acceptable swimming threshold is 540 *E.coli* per 100ml (C-band/yellow category). This threshold represents the existing acceptable state for ‘primary contact recreation’ defined in the Freshwater NPS. It is in line with the 2003

⁵ Fourth order rivers and lakes with a perimeter of 1.5km or more.

[Microbiological water quality guidelines for marine and freshwater recreational areas](#) developed by the Ministry of Health and the Ministry for the Environment⁶.

50. In addition there are four tests, or measures associated with the table. All four tests in the attribute table must be met for the waterbody to be said to have achieved the swimming threshold. The new table can be found on page 41 of the Freshwater NPS (Appendix 1). The table provided below summarises the tests and describes the associated risks. Together these tests provide a robust threshold for determining infection risk when swimming.
51. We have also made minor and technical amendments to the attribute table for Human health for recreation (Lakes) cyanobacteria. These changes insert details for the B band (which is currently blank), to provide a greater degree of granularity when tracking improvements over time. This change has been made for clarity and does not have any other impact.

⁶ The MoH/MfE recreational guidelines standard, above which water is considered unsafe for swimming, is 550 *E.coli* per 100 ml - they are close enough that the risk is considered the same.

Table 1. The statistical measures (tests) for the swimming categories

Category	Percentage of exceedances over 540 <i>E.coli</i> per 100 ml	Median: <i>E.coli</i> per 100 ml	95th percentile: <i>E.coli</i> per 100 ml	Percentage of samples above 260 <i>E.coli</i> per 100 ml	Narrative risk descriptor
What it means	<i>How often the river exceeds the acceptable threshold for swimming</i>	<i>The mid-point (ie, half the time E. coli is lower than this, half the time it is higher)</i>	<i>E. coli only rarely goes past this point (only 5% of the time)</i>	<i>How often the river goes over the point where additional monitoring is needed</i>	<i>Risk of Campylobacter infection (based on E.coli indicator)</i>
A (Blue)	Less than 5 per cent	130 or less	540 or less	Less than 20 per cent	For at least half the time, the estimated risk is <1 in 1000 (0.1% risk). The predicted average infection risk is 1%*
B (Green)	5-10 per cent	130 or less	1000 or less	20-30 per cent	For at least half the time, the estimated risk is <1 in 1000 (0.1% risk). The predicted average infection risk is 2%*
C (Yellow)	10-20 per cent	130 or less	1200 or less	20-34 per cent	For at least half the time, the estimated risk is <1 in 1000 (0.1% risk) . The predicted average infection risk is 3%*
D (Orange)	20-30 per cent	More than 130	More than 1200	More than 34 per cent	20-30% of the time the estimated risk is ≥50 in 1000 (>5% risk). The predicted average infection risk is >3% and <7%*
E (Red)	More than 30 per cent	More than 260	More than 1200	More than 50 per cent	For more than 30% of the time the estimated risk is ≥50 in 1000 (>5% risk). The predicted average infection risk is >7%*

*The predicted average infection risk is the overall average infection to swimmers based on a random exposure on a random day, actual risk may be less if a person does not swim during high flows.

52. There has been debate about whether the new standards amount to a lowering of the existing standard. There was confusion because the four statistical tests for each category were not in the *Clean Water* discussion document but in a background technical paper on the Ministry for the Environment’s website. A footnote to the attribute table now clarifies that all four measures must be met and should be determined using a minimum of 60 samples over a maximum of five years collected on a regular basis regardless of weather and flow conditions. The only exception to this is if there is insufficient monitoring data to establish the 95th percentile, in which case that measure/statistic does not apply.
53. The current Freshwater NPS has a national bottom line which is set at ‘wadeable’ or ‘secondary contact’. As the swimming or ‘primary contact’ measures were not a *requirement*, these provisions were not widely used or subject to much scrutiny. The new proposal takes a more sophisticated approach to grading rivers for primary contact, it shifts the focus from *swimmable or not*, to being about *how often* it is suitable for swimming. This is now based not just on one statistical test but four tests which measure how

E.coli varies over time. The narrative risk descriptor column in the table above describes the risk of *Campylobacter* infection based on the indicator *E.coli*. The actual risk would often be less if swimming is not undertaken during periods of higher flow when pathogen counts are elevated from run-off.

54. There is an important balance to be struck when grading whether a river is suitable for swimming. We want to set a level that properly protects public health, but not set a level that is so precautionary that it discourages people from swimming when the risks are small. We are satisfied this balance is appropriate in that the minimum standard we are setting is more cautious than other jurisdictions that grade water bodies for recreation.
55. This proposal generated a significant amount of concern from submitters who perceived that it lowered the existing standard for swimming. This perception was not helped by the detailed four statistical tests not being in the *Clean Water* discussion document but on the Ministry's website instead, and the narrative attribute states not giving sufficient information on the actual level of risk.
56. The new table makes plain that any river described as swimmable would need to have a median concentration (*E.coli*/100mls) of less than 130, and the predicted average infection risk is one percent for A (blue), two percent for B (green) and three percent for C (yellow).
57. During the consultation period we released additional information provided by NIWA which provided a technical comparison of the attribute tables. The NIWA report discussed the categories in the new *E.coli* attribute table, how they compare to the previous *E.coli* attribute table and the EU grading for swimming.

Comparison between the Clean Water and the EU swimming categories

58. The categories in the *E.coli* attribute table are comparable to the European Union (EU), which is the only other jurisdiction that grades recreational water quality in this way. In the EU, rivers are graded as having Excellent, Good, Sufficient and Poor water quality for bathing, compared to grades of A-E in *Clean Water*.
59. The EU 'Excellent' and 'Good' categories are near identical to our gradings. The 95th percentile test for 'Excellent' in Europe is 500 *E.coli* as compared to the 540 proposed here. The 95th percentile test for 'Good' in Europe and under this proposal is 1000 *E.coli*. The New Zealand proposal is more cautious in also requiring three other statistical tests.
60. In *Clean Water* the minimum acceptable standard for "swimmable" is C (Yellow) with a predicted risk of infection < 3% (this is in line with World Health Organisation recommendations). This is more cautious than the EU 'sufficient' for swimming category. If we adopted the EU 'Sufficient' category, more New Zealand rivers would be deemed 'swimmable'.
61. Furthermore the EU grades are much easier to 'pass' than the *Clean Water* grades, in that they are based on a single test rather than four tests, have more lenient monitoring requirements, and enable EU member states to discard up to 15 percent of samples due to short term pollution.

62. The NIWA analysis on the application of the statistical tests when applied to 76 NIWA sites for which there is comprehensive data would deem 62 percent of them swimmable under the proposals whereas under the EU categories the proportion would be 72 percent.
63. Feedback indicated that the NIWA report clarified for many submitters that the swimming standard had not been lowered and addressed many of the issues raised. We recognise there is still a risk that the new attribute table and requirements will be perceived by some as lowering the standard.
64. In our view, the target strikes a balance of ambitious but practical and the swimming standards set an appropriate level of risk which is equivalent or better than the EU standards.

v. Swimming - monitoring

65. We consulted on a requirement for councils to undertake weekly surveillance monitoring of *E.coli* bacteria at sites used for primary contact (swimming), and warn the public if levels could present a health risk. This is based on the recommended approach in the 2003 recreational water quality guidelines but recognises that daily follow-up sampling may not be needed for every site with high results as long as the public are informed. Our officials have worked with the Ministry of Health to refine what was consulted on. Our proposal is consistent with advice from NIWA and regional council submissions and is supported by the Ministry of Health.
66. The proposals build on the 2003 recreational water quality guidelines by requiring weekly surveillance monitoring during the bathing season and use 260 *E. coli* per 100 ml as a threshold at which to move to more rigorous monitoring and to notify the public. Councils must also take all reasonable steps to identify the potential causes of microbial contamination.
67. While many councils already do this kind of monitoring the new requirement makes it mandatory for all councils. This is in addition to the monthly state of the environment monitoring councils are required to do to measure progress toward freshwater objectives in accordance with the new *E. coli* attribute table.

Swimming - the costs of meeting the targets

68. Achieving the national target will require improvements in water quality in relation to *E. coli* by 2030/2040. The costs associated with those improvements will depend on the choices councils make about which water bodies are to be improved first, the level of improvement being aimed for, and the timeframe for achieving these improvements. When making those choices, regional councils will have to consider the impacts of those choices on communities.
69. We have case studies, such as Manawatu, that give us estimates of the costs of improving the swimmability of rivers and lakes, where for \$46 million of expenditure, 600 kilometres of rivers have been improved from red to orange. This would suggest a cost of achieving the 2030 target of approximately \$880 million, or \$73 million per year, and a further \$1.16 billion, or \$110 million per year, to 2040. The total costs of the 2040 target are estimated at \$2 billion, of which \$367 million is attributed to the proposed stock exclusion regulations. Part of these costs will fall on farmers, and on councils upgrading urban water systems [CAB-17-Min-0017 refers].

70. These costs are bound up with other actions to achieve improvements in water quality, and will vary depending on the individual council response and over what timeframe. We expect improvements to water quality to occur as a result of the Stock Exclusion Regulations and importantly, improvements to water quality in terms of *E.coli* will generate spin-off benefits. For example, urban infrastructure upgrades will reduce sewage overflows to streams during rainfall events and thereby also reduce nutrients, heavy metals and other contaminants into rivers and lakes.

Economic wellbeing

71. Before councils set freshwater objectives and limits in their regional plans they are expected to have a community conversation to identify community values and then work to maximise the benefits of water-use while upholding those values. As part of that, the Freshwater NPS currently requires councils to consider 'economic implications' when setting objectives. Feedback from stakeholders was that this direction is insufficient.
72. We proposed and consulted on amendments to strengthen this requirement. The amendments made it explicit that the discussion with the community should be about providing for 'economic wellbeing, including productive economic opportunities'.
73. The draft wording for this proposal generated concern from all sectors and in our view there is an opportunity to make our expectations on this matter clearer. Comments were received from Iwi, regional councils, ENGOs and individuals about whether further consideration of economic factors within the Freshwater NPS is appropriate as this is already addressed through the RMA. The Freshwater Iwi Advisors Group, and others, opposed the proposal because they consider it would pit water quality against economic objectives and could result in further degradation to water quality.
74. We have considered the views expressed on this issue and propose to amend the Freshwater NPS to better express the balance of considerations intended to be part of the values and objectives setting process. The amendments would insert two new objectives and policies which align with the purpose of the Resource Management Act.
75. An amendment to an existing policy within the national objectives framework further prompts councils to consider how to enable communities to provide for their economic wellbeing when setting freshwater objectives.

Monitoring - macroinvertebrates / flora and fauna and mātauranga Māori

76. The Freshwater NPS already contains requirements which direct regional councils to monitor progress toward achieving freshwater objectives. This amendment will clarify how and what councils should be monitoring. It signals that monitoring should also be focused on achieving the ecosystem and human health values, as well as other values the community has identified.
77. The proposed amendments will require councils to monitor macroinvertebrates using a specific methodology - the Macroinvertebrate Community Index, or MCI. Freshwater macroinvertebrates are aquatic animals that have a crucial role in

freshwater ecology and respond quickly to changes in water quality. Monitoring them can be useful to assess water quality and ecosystem health.

78. The MCI method contains 'thresholds' and when a threshold 'score' of 80 is reached regional councils will be required to investigate and seek ways to improve that index score.
79. The amendments also direct regional councils to use measures of the health of indigenous flora and fauna, for example, the numbers and diversity of native fish populations. The new requirement to utilise mātauranga Māori, provides a frame for using Māori indigenous knowledge for monitoring and assessing values such as ecosystem health. Using mātauranga Māori supports and aligns with the new Te Mana o Te Wai objective (discussed below).
80. If monitoring indicates that freshwater objectives/values are not being met, councils must develop methods (eg an action plan) detailing how they will respond. Councils must make their monitoring data available to the public.
81. These changes are well supported by submitters and, collectively will help address the issue of nationally comparable data, while the requirement to make data publicly available will provide New Zealanders with better knowledge about the state of their waterways.
82. Impacts associated with the increased direction on monitoring are mitigated by current RMA requirements which require councils to undertake state of the environment monitoring. Many councils already monitor using the indicators included here (ie MCI). The value of the proposal lies in a nationally consistent approach (ie captures councils which should already be monitoring these indicators) and provides regionally comparable data.

Managing nutrients in rivers - nitrogen and phosphorus

83. High levels of the nutrients nitrogen and phosphorus can promote periphyton growth (slime) which, in large amounts can adversely affect aquatic ecosystems (e.g. by smothering the bed or removing oxygen). The Freshwater NPS requires councils to set objectives and limits to manage periphyton. The intent is, that in managing for periphyton growth both nitrogen and phosphorus levels will need to be addressed, however, there is no specific direction to do so.
84. Submitters raised concerns that without specific direction some councils may not address nitrogen and phosphorus in their regional plans. We have consulted on options to clarify this requirement. As part of their response the Land and Water Forum (LAWF) provided a process for addressing these nutrients in plans, whilst also taking into account nutrient sensitive downstream receiving environments, such as lakes and estuaries.
85. We agree with the LAWF recommendation as this clarifies the existing intent of the Freshwater NPS and, importantly, links it to the current requirement in Part C – Integrated management to consider whole catchments in an integrated way including cumulative effects.
86. We propose to amend the periphyton attribute table in the Freshwater NPS as follows:

- Provide a process for, and direct councils to, set in-stream concentrations for dissolved inorganic nitrogen and dissolved reactive phosphorus to meet freshwater objectives for periphyton
 - direct councils to manage the effects on downstream environments by setting appropriate in-stream concentrations for nitrogen and phosphorus
87. There are no new impacts associated with this proposal. This change makes explicit the Freshwater NPS intent to manage nutrients in order to achieve periphyton objectives and, while doing so, to consider the effects on downstream receiving environments.

Maintain or improve overall water quality

88. The Freshwater NPS currently has an objective which states that overall water quality is to be maintained or improved ‘across a region’. Feedback from councils and communities on *Next Steps* indicated there was debate about what ‘maintaining water quality across a region’ means in terms of regional planning; particularly in relation to the water quality attributes that were introduced in 2014 as part of the national objectives framework.
89. We have considered the views expressed by submitters and proposed in the *Clean Water* document to amend the Freshwater NPS as follows:
- amend Objective A2 to replace reference to ‘a region’ with ‘a freshwater management unit’
 - where attributes are defined in the Freshwater NPS, freshwater objectives to maintain overall water quality must be set within the same attribute band as existing water quality; and
 - where attributes are not defined in the Freshwater NPS, freshwater objectives to maintain overall water quality must be set so that the values identified are not worse off when compared to existing water quality.
90. These amendments are broadly supported by submitters. The Ministry for the Environment will address any remaining concerns through an implementation program and guidance.
91. There are no new impacts associated with this amendment because it does not add any new requirement, is not inconsistent with the approaches taken by regional councils to date, and provides greater certainty to communities.

Infrastructure exceptions to national bottom lines

92. The Freshwater NPS allows councils to set freshwater objectives below a national bottom line (an ‘exception’) if:
- i. *the current water quality is below national bottom lines;*
 - ii. *infrastructure contributes to existing water quality; and*
 - iii. *the infrastructure is listed in Appendix 3 of the Freshwater NPS.*
93. We consulted on, and have proposed small refinements to the policy to make its application clearer. One change is to remove the proposed new definition of ‘benefits’ provided by infrastructure as a definition of benefits already exists in the RMA.

94. While it is in force, Policy CA3 cannot practically be used while Appendix 3 is empty. We did not consult on, and are separately considering, whether infrastructure should be listed in the Appendix, but do not propose any listings at this time. Our officials have worked with the Ministry for Business, Innovation and Employment on this issue. We propose to consider populating Appendix 3 through further public consultation on listing infrastructure eligible for an exception in the Freshwater NPS. We will report back to Cabinet in 2018 to consider populating Appendix 3.

Coastal lakes and lagoons

95. The Freshwater NPS applies to all fresh water whether it is in an aquifer, river, wetland, coastal lagoon or inland lake. However, feedback from councils has shown there is confusion around the applicability of the lake attributes and national bottom lines to intermittently closing and opening coastal lakes and lagoons. As a result there are inconsistencies in the way councils have applied the Freshwater NPS water quality attributes to those particular water bodies.
96. Advice from scientists with expertise in both freshwater lakes and estuaries is that the lake attributes and national bottom lines are applicable to coastal lakes. Water quality data indicate that most of these coastal lakes are either already above national bottom lines, or could achieve national bottom lines over time. The exception to this is Te Waihora/Lake Ellesmere in Canterbury. However, there is good work underway to improve this water body.
97. The impact of improving degraded coastal lakes and lagoons can be mitigated in the first instance through setting 'long-term freshwater objectives'. These acknowledge that improvements in water quality may take time. The Freshwater NPS also provides a mechanism for councils to have 'transitional' exceptions to national bottom lines where bottom lines cannot currently be met. Councils have until 2025 to implement the Freshwater NPS in their plans which means they have until this time to continue the good work being undertaken to improve water quality and/or list a waterbody (eg Te Waihora/Lake Ellesmere) for a transitional exception.
98. We propose to amend the Freshwater NPS as follows:
- Amend Appendix 2 (lake attributes) by removing the footnote in the total nitrogen attribute table
 - Add a new footnote to each of the lake attribute tables to clarify minor technical issues with the monitoring requirements
99. This proposal removes ambiguity and so reduces potential debate and litigation. It clarifies that all water bodies the NPS applies to must be captured in regional plans, while recognising that some water bodies will take a long time to see improvement and provides a mechanism to acknowledge this.

Recognising the national significance of fresh water and Te Mana o te Wai

100. The 2014 amendments to the Freshwater NPS introduced the concept of Te Mana o Te Wai through a 'statement of national significance'. This was located at the beginning of the NPS, ahead of the objectives and policies. Councils and the Freshwater Iwi Leaders Group subsequently expressed concern that the statement did not provide regional councils with enough direction on what Te Mana o te Wai is, and what councils are expected to do to give effect to it in their regional plans.
101. We propose to include more detail on the meaning of Te Mana o te Wai and how it relates to freshwater management planning, through:
- Expanding the statement of national significance to provide a description of Te Mana o te Wai and what it means for freshwater management and moving it to the body of the NPS;
 - A new objective and policy;
 - Amending two of the value descriptions (human health for recreation and natural form and character); and
 - Adding to the current Part C- Integrated management, that managing water in an integrated way means to recognise the interactions, ki uta ki tai (from the mountains to the sea) between fresh water, land, associated ecosystems, and the coastal environment.
102. As described in the statement of national significance, Te Mana o Te Wai is the integrated and holistic wellbeing of a freshwater body. Upholding Te Mana o Te Wai acknowledges and protects the mauri of the water. The statement of national significance also states that "in using water, you must provide also provide for the 'three healths' - Te Hauora o Te Wai (the health of the water), Te Hauora o Te Tangata (the health of the people) and Te Hauora o Te Taiao (the health of the environment)".
103. In the *Clean Water* consultation we proposed to make clear the links between some of the national values in Appendix 1 of the Freshwater NPS and the three healths that make up Te Mana o te Wai. Some submitters viewed this proposal negatively and felt that it created a hierarchy that disadvantaged extractive use values (such as irrigation). As the policy intent was not to create a hierarchy, we proposed to remove these links.
104. The new objective and policy direct councils to consider and recognise Te Mana o te Wai in freshwater management – including by noting the connection between fresh water and the broader environment and the need to inform the setting of freshwater objectives and limits through engagement with the community, including tāngata whenua.
105. This is supported by an amendment to an existing policy on 'integrated management'. The change directs councils to take a whole of catchment view by recognising the interactions of land-use and fresh water from the mountains to the sea or ki uta ki tai.
106. There was strong support for adding clarity to Te Mana o Te Wai, including from the regional councils. We consider the amendments provide context about the meaning of Te Mana o Te Wai and its status as the underpinning platform for community discussions on freshwater values, objectives and limits.

107. The development of the proposals for Te Mana o Te Wai are the result of extensive work with the Freshwater Iwi Advisors and Iwi Leaders Group. Officials from the Ministry for the Environment will continue to work with Iwi Advisors to ensure councils and communities understand what Te Mana o Te Wai is, and implement it as intended.

Financial implications

108. The proposals in this paper have financial implications for the Ministry for the Environment and Ministry for Primary Industries. Current resourcing will enable the provision of guidance supported by on-going science to assist regional council implementation of the Freshwater NPS.

109. There will be financial implications for regional councils with regard to monitoring, and councils and other stakeholders associated with consultation and planning. However, regional planning is a regular process and it is intended that the proposals in this paper will improve clarity on the existing Freshwater NPS requirements. This is expected to reduce costs for the scientific analysis and litigation that often accompany planning. Financial impacts for affected sectors will in part be offset by efficiencies from clarity on the requirements.

110. There will also be costs to farmers, councils and therefore ratepayers, for achieving the national swimming targets. The costs and benefits of the proposed amendments are discussed in more detail in the attached Regulatory Impact Statement (Appendix 3) and section 32 evaluation (Appendix 4).

Legislative implications

111. This paper seeks a decision to amend a National Policy Statement. A National Policy Statement is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012. This means that the amended National Policy Statement must be presented to the House of Representatives and the House may, by resolution, disallow it or any provisions of it.

Regulations Review Committee

112. We consider that there are no grounds for the Regulations Review Committee to draw the National Policy Statement for Freshwater Management to the attention of the House under Standing Order 319.

Certification by Office Solicitor of the Ministry for the Environment

113. The draft amended National Policy Statement has been certified by the Office Solicitor of the Ministry for the Environment as being in order for submission to Cabinet.

Compliance

114. The proposed regulations comply with:

- a) the principles of the Treaty of Waitangi;
- b) rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;

- c) principles and guidelines set out in the Privacy Act;
 - d) relevant international standards and obligations; and
 - e) the LAC Guidelines: Guidelines on Process and Content of Legislation.
115. The statutory prerequisites that apply to amending a national policy statement are detailed in sections 45-54 of the RMA. The statutory requirements have been met.
116. Section 46A requires the Minister for the Environment to choose between using a board of inquiry or an alternative process to inquire into and report on the proposed amendments. The Minister for the Environment chose to use an alternative process under section 46A(3)(b) that meets the statutory requirements to give the public adequate time and opportunity to make a submission; and consider a report and recommendations on the submissions and the subject matter of the proposed amendments.
117. Consultation on the proposed amendments commenced on 23 February 2017 and closed on 28 April 2017. There was an extension for the swimming proposals to 25 May 2017. This is discussed in the report and recommendations on the submissions and the proposed amendments contained in Appendix 2. The report provides an evaluation of the key issues raised in submissions, recommendations on the proposed amendments and evaluates the proposed amendments against the matters in Part 2 of the RMA.
118. The proposals in this paper follow consideration of the report and recommendations and a further evaluation under section 32AA of the RMA (Appendix 4). If Cabinet agrees, the Minister for the Environment will recommend that the Governor-General approve the National Policy Statement.

Timing and 28-day rule

119. The amendments to the National Policy Statement will come into force 28 days after notification in the Gazette.

Regulatory impact analysis

120. The Regulatory Impact Analysis (RIA) requirements apply to the proposal in this paper and a Regulatory Impact Statement (RIS) has been prepared and is attached (Appendix 3).
121. The Regulatory Quality Team at the Treasury has reviewed the Regulatory Impact Assessment Amendments to the National Policy Statement for Freshwater Management 2014 produced by the Ministry for the Environment and the Ministry for Primary Industries and dated 26 July 2017. The review team considers that it partially meets the Quality Assurance criteria.
122. The analysis clearly shows that some Councils are not addressing community expectations in some regards, despite their obligation to do so under the present National Policy Statement, and that in some cases this may be due to a lack of clarity as to what exactly they are required to do. Proposals to introduce greater certainty in such cases, and their likely impacts, are well set out.
123. In its explanation of the proposed response to the national community aspiration for more swimmable water, the Assessment shows that costs, which will fall on

local communities, are undeterminable at this stage, but could be very substantial and may or may not be in line with what those local communities would have wanted, and been willing to pay for, anyway.

124. This means that it is difficult to assess how behaviour and decisions by Councils and stakeholders will change, or be forced to change, in practice as a result of the proposed amendments; and therefore, how far the revised requirements will entail costs (and benefits) over and above those necessary to meet local community preferences and values.
125. The monitoring requirements already in place should enable the environmental impacts in practice of the proposed approach to be assessed over time. However, it will also be important to observe economic impacts on councils and other stakeholders, and to continue to develop a better view of the technical feasibility of meeting the proposed requirements, for a balanced assessment to enable a well-informed approach to any future review.

Publicity

126. The amended National Policy Statement will be notified in the Gazette. The amended National Policy Statement and the submissions summary report under section 46A(4)(c) will be publicly notified and a copy will be sent to every local authority. A summary of the recommendations in the report and a summary of the Minister for the Environment's decisions (including reasons for not adopting any recommendations) will be made available to submitters as required by section 52(3)(c) of the RMA.
127. We intend to make a public statement on the amended National Policy Statement and to make relevant papers publicly available on the Ministry for the Environment website following notification in the Gazette.
128. The changes to the National Policy Statement could be announced subject to Cabinet agreement, prior to the election. These announcements are likely to attract a high level of media and public attention.
129. More detailed information, including the amended National Policy Statement, will be available on the Ministry for the Environment's website following the announcement.

Consultation

130. The following agencies have been consulted on this paper and their views have been taken into account: The Ministry of Health, Te Puni Kōkiri, The Ministry of Business, Innovation and Employment, The Treasury, The Department of Conservation, The Department of Internal Affairs, The Office of Treaty Settlements. The Department of Prime Minister and Cabinet has been informed. Treasury was informed of the changes to the requirement to improve water quality following discussions at EGI. They advise their original comment (set out below) should be retained.
131. Treasury recommends having a 'maintain' option in Objective A3 of the NPS for rivers and lakes that are rated as "Fair", "Good" or "Excellent". The proposed Objective A3 requires improvement to all freshwater management units so they are suitable for swimming more often. The departure from the status quo of

'maintain or improve' to 'improve all rivers and lakes' also erodes the freedom of councils and communities to make locally optimal decisions and prioritise which rivers and lakes they want to improve vs maintain. Furthermore, requiring improvements to all rivers and lakes may not necessarily drive faster and more progress towards the national targets in the short term compared to having a 'maintain' option. Not having a 'maintain' option may simply lead to councils and communities spreading their efforts to improve all rivers and lakes by a smaller amount than a potentially higher impact option of improving some rivers by a larger amount while maintaining the rest.

132. The Department of Conservation notes some technical issues that need to be dealt with during the implementation stage, and the need to do timely work on other important attributes such as sediment and water quantity that have major effects on biodiversity and fisheries.

Recommendations

The Minister for the Environment and the Minister for Primary Industries recommend that the Committee:

Background

133. note that on 13 February 2017, Cabinet agreed that consultation be undertaken on amendments to the National Policy Statement for Freshwater Management 2014 [CAB-17-MIN-0017]
134. note that the statutory RMA requirements for amending a National Policy Statement have been met

Swimming

135. agree to amend the National Policy Statement for Freshwater Management 2014 to insert a national swimming target, of 90% of specified rivers and lakes to be swimmable by 2040 with an interim target of 80% by 2030, into the preamble and Appendix 6
136. agree to amend the National Policy Statement for Freshwater Management 2014 to insert
 - 136.1. a new objective A3 to require councils to improve the quality of fresh water within freshwater management units so that it is suitable for primary contact more often unless naturally occurring processes mean further improvement is not possible or regional targets established under Policy A6 have been achieved.
 - 136.2. a new policy A5 to require councils to identify specified rivers and lakes and other primary contact sites, state improvements that will be made to these sites and over what timeframes. The improvements to specified rivers and lakes need to contribute to achieving regional targets. When regional targets are achieved water quality may be maintained or improved.
 - 136.3. a new policy A6 requiring councils to establish regional targets which must contribute to achieving the national target. They will need to make draft targets available to the public by 31 March 2018, and final targets by 31 December 2018.

- 136.4. a new *E.coli* attribute table in Appendix 2 that establishes a new set of standards for *E.coli* that is based on the proportion of time water quality meets the primary contact threshold.
- 136.5. a new requirement in Part CB to undertake surveillance monitoring at primary contact sites in accordance with new Appendix 5 which sets out time and site based requirements for the monitoring.
- 137. Invite the Minister for the Environment to report back to Cabinet on final regional targets, once these have been set by councils at the end of 2018

Economic well-being

- 138. agree to amend Parts A, B and CA of the National Policy Statement for Freshwater Management 2014 to:
 - 138.1. insert a new objective and new policy into part A and part B which requires councils to consider how to enable communities to provide for their economic wellbeing, including productive opportunities while managing within limits
 - 138.2. amend the national objectives framework in part CA to add an explicit requirement to consider how to enable communities to provide for their economic wellbeing, including productive economic opportunities, while managing within limits

Monitoring - macroinvertebrates / flora and fauna and mātauranga Māori

- 139. agree to amend Policy CB1 of the National Policy Statement for Freshwater Management 2014 to require councils to include in their monitoring plans methods for monitoring the extent to which values are being provided for using at least:
 - 139.1. macroinvertebrate communities
 - 139.2. measures of the health of indigenous flora and fauna
 - 139.3. information obtained under Policy CB1(a) and Policy CC1
 - 139.4. mātauranga Māori
- 140. Insert a new policy CB2 to require councils to establish methods, including action plans, for responding to monitoring that indicates that freshwater objectives will not be met, or freshwater values will not be provided for in a freshwater management unit
- 141. insert a new policy CB3 to require councils monitoring macroinvertebrates using the Macroinvertebrate Community Index to respond and take action in response to specific declining trends.
- 142. insert new policy CB4 to require councils to make information they gather as part of the monitoring requirements to be made publicly available

Managing nitrogen and phosphorus

- 143. agree to amend the Periphyton table in Appendix 2 of the National Policy Statement for Freshwater Management 2014 to:

- 143.1. provide a process for, and direct councils to, set in-stream concentrations for dissolved inorganic nitrogen and dissolved reactive phosphorus to meet freshwater objectives for periphyton
- 143.2. direct councils to manage the effects on downstream environments by setting appropriate in-stream concentrations for nitrogen and phosphorus

Maintain or improve overall water quality

144. agree to amend the National Policy Statement for Freshwater Management 2014 to
 - 144.1. amend Objective A2 to replace reference to 'a region' with 'a freshwater management unit';
 - 144.2. where attributes are defined in the Freshwater NPS, freshwater objectives to maintain overall water quality must be set within the same attribute band as existing water quality; and
 - 144.3. where attributes are not defined in the Freshwater NPS, freshwater objectives to maintain overall water quality must be set so that the values identified are not worse off when compared to existing water quality.

Infrastructure exceptions to national bottom lines

145. agree to amend Policy CA3 to clarify the circumstances that exceptions for infrastructure can be applied
146. agree not to proceed with proposed amendments to Policy CA3 defining the benefits provided by infrastructure as this is already defined in the RMA; and
147. note the Ministry for the Environment, in consultation with the Ministry of Business, Innovation and Employment and other relevant ministries, will publish a timetable by September 2017 outlining the process for populating Appendix 3

Coastal lakes and lagoons

148. agree to amend the National Policy Statement for Freshwater Management 2014 to amend the Appendix 2 lake attribute tables
 - 148.1. by removing the footnote in the total nitrogen attribute table, and
 - 148.2. adding a new footnote to each of the lake attribute tables to clarify minor technical issues with the monitoring requirements

Te Mana o te Wai

149. agree to amend the National Policy Statement for Freshwater Management 2014 to include;
 - 149.1. a new statement of national significance that improves the description of Te Mana o te Wai
 - 149.2. an objective to consider and recognise Te Mana o te Wai in the management of fresh water

- 149.3. a supporting policy noting that Te Mana o te Wai recognises the connection between water and the health of the environment, waterbody and the people
- 149.4. a policy on integrated management section requiring regional councils to recognise ki uta ki tai, the connection between water, land, associated ecosystems and the coastal environment

Other minor amendments

150. Agree to amend the National Policy Statement for Freshwater Management 2014 to make other minor amendments to ensure the instrument is up to date, including:
 - 150.1. Update the preamble text to align the text with the proposed changes
 - 150.2. Updating the interpretation section to remove or add definitions to align the text with the proposed changes
 - 150.3. Adding new terms, and removing terms, throughout the instrument to align the text with the proposed changes
 - 150.4. Updating the text of amendments that were consulted on to improve workability

Statutory requirements

151. Note that the Minister for the Environment considers that the relevant consultation and decision-making requirements for making a national policy statement under the Resource Management Act 1991 have been met, including:
 - 151.1. The Minister has considered a Summary of Submissions and Recommendations report following the *Clean Water* consultation process; and
 - 151.2. The Minister has had particular regard to the evaluation report made in accordance with section 32 of the RMA when deciding to recommend the making of amendments
152. Note the Minister for the Environment intends to publicly notify the submissions summary and s32 report when the National Policy Statement for Freshwater Management 2017 amendments are gazetted as is required under section 32(5) of the RMA
153. Note that, in accordance with section 52(3)(a) of the RMA, the Minister for the Environment will notify the amendments to the National Policy Statement for Freshwater Management 2017 in the Gazette as soon as practicable after it is approved by the Governor-General in Council
154. Note that in accordance with section 52(3)(d) a copy of the amendments must be tabled in the House of Representatives
155. Note that the National Policy Statement for Freshwater Management 2017 will come into effect 28 days after the date on which it is published in the Gazette
156. Note that, if Cabinet agrees to the recommendations above, when the amendments are gazetted the Crown Law Office will file an update to the

Waitangi Tribunal hearing the WAI 2358 freshwater and geothermal resources inquiry about the amendments

Final decisions

157. Note that the Economic Growth and Infrastructure Committee on 3 August invited the Minister for Primary Industries and the Minister for the Environment to revise the submission, as appropriate, before Cabinet [EGI-17-MIN-0213]
158. Note that this submission has been revised and Appendix 1 The National Policy Statement for freshwater Management 2014 [with amendments underlined] and Appendix 5 the National Policy Statement for Freshwater Management Amendment Order 2017, have been amended and are attached to the revised Cabinet paper
159. Note that the Regulatory Impact Statement and the s32AA statutory documents will be updated to reflect the changes identified in the Cabinet paper and appendices prior to publicly releasing them on the Ministry for the Environment's website
160. Note that if Cabinet agrees to the recommendations of this paper the Minister for the Environment and Minister for Primary Industries will publicly release this paper (with any appropriate redactions), including Cabinet decisions, to meet statutory requirements
161. Authorise the Minister for the Environment, in consultation with other Ministers as appropriate, to make minor editorial changes and finalise the content of the National Policy Statement for Freshwater Management Amendment Order to reflect the decisions above, before submission to Executive Council
162. Agree to submit the amendments to the National Policy Statement for Freshwater Management 2017 to the Executive Council

Hon Nick Smith

Minister for the Environment

Hon Nathan Guy

Minister for Primary Industries

**Appendix 1. The National Policy Statement for Freshwater Management 2014
[with amendments underlined]**

**Appendix 2. Submissions report and recommendations on proposed
amendments to the National Policy Statement for Freshwater Management 2014**

**Appendix 3. Regulatory Impact Statement on proposed amendments to the
National Policy Statement for Freshwater Management 2014**

**Appendix 4. Section 32 and 32AA of the RMA Evaluation Report on proposed
amendments to the National Policy Statement for Freshwater Management 2014**

**Appendix 5: National Policy Statement for Freshwater Management Amendment
Order 2017**