

**Submission**

**by**

**THE  
NEW ZEALAND  
INITIATIVE**

**to the Ministry for the Environment**

**on the**

**National Direction Changes under the Resource  
Management Act (Packages 1-3)**

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## **1. INTRODUCTION AND SUMMARY**

- 1.1 This submission responds to the Ministry for the Environment's public consultation on proposed changes to National Policy Statements (NPSs) and National Environmental Standards (NESs) under the Resource Management Act 1991 (RMA). These changes are presented in three packages released on 29 May 2025: Infrastructure & Development, the Primary Sector, and Freshwater.
- 1.2 The New Zealand Initiative is a Wellington-based public policy think tank supported primarily by major New Zealand businesses. Our research and advocacy focus on promoting an open, prosperous, and fair society underpinned by the rule of law, strong institutions, and well-defined property rights.
- 1.3 We commend the government's overarching direction: the move toward a resource management system that respects property rights, enables development, and promotes efficient environmental management. This submission supports the general intent of the national direction changes, with specific suggestions to ensure the proposals realise their potential.
- 1.4 A fourth package was released on 18 June 2025 on 'Going for Housing Growth'. The Initiative will be submitting separately on this package.
- 1.5 We would welcome the opportunity to discuss our submission with officials.

## **2. GENERAL COMMENTARY**

- 2.1 National direction under the RMA should provide consistent, principled, and proportionate guidance that facilitates local decision-making without imposing unnecessary regulatory burdens. Historically, national direction has proliferated in an ad hoc and often contradictory fashion. We support the government's effort to rationalise, clarify, and streamline this framework. Importantly, national direction should be consistent with the direction and principles for RMA replacement.
- 2.2 The overarching principles that should guide national direction are:
  - Respect for private property rights, including the presumption of permitted use unless demonstrable harm is likely to result.
  - Use of market-based instruments where possible to manage environmental externalities.
  - Clear, targeted national direction that addresses genuine issues of national significance.
  - Avoidance of duplicative or contradictory regulation across different NPSs and NESs.

- 2.3 As a general overarching comment, a new resource management system should confront those who have a preferred land use with the cost to the community of the forgone land use. Incentive alignment requires that the cost of funding land use that benefits the wider community be funded by the wider community. This is also the basis of the Public Works Act.
- 2.4 Where externalities cannot be satisfactorily internalised by adjustments to private property rights, policy should consider the use of economic (price-based) instruments in addition to (or instead of) 'command-and-control' regulation. The latter lends itself to imposing outcomes, often regardless of cost, whereas the former is more content to accept the outcomes that emerge once costs are better internalised.
- 2.5 Therefore, the Initiative strongly supports using market-based instruments to achieve positive environmental outcomes. These tools – including tradeable permits, pricing mechanisms, offset systems, and dynamic allocation models – can achieve superior results compared to command-and-control regulation. Market-based approaches preserve individual choice, provide flexibility in meeting environmental goals, and incentivise innovation and efficiency. We encourage the government to expand the role of such instruments in future national direction, particularly in areas such as freshwater allocation, biodiversity protection, emissions reduction, and urban land use.
- 2.6 In the meantime, this submission generally advocates for stronger national direction when it enables infrastructure and housing development (Package 1) and for more flexibility where centrally imposed rules might impede economic activity in primary sector and freshwater (Packages 2 and 3) by imposing one-size-fits-all restrictions that ignore local conditions.
- 2.7 Our approach to package one addresses the problem that councils do not currently have financial incentives to make them more embracing of growth and development. They bear the costs (e.g., from the need to provide and maintain infrastructure) but do not share in the benefits in the same way as central government.

### **3. PACKAGE 1: INFRASTRUCTURE & DEVELOPMENT**

This package contains eight proposals for national direction.

#### **3.1 National Policy Statement for Infrastructure (NPS-I)**

**Overview:** This NPS aims to elevate the importance of infrastructure in decision-making and planning documents. It introduces a stronger focus on prioritising infrastructure delivery by prioritising infrastructure planning and delivery; giving weight to projects of national or regional significance; and aligning infrastructure provision with spatial planning and housing growth.

This proposal is timely and necessary. Under the status quo, infrastructure providers and developers face fragmented and inconsistent rules across regions, contributing to cost escalations and project delays. By prioritising infrastructure at the national level and establishing a clearer planning framework, the NPS-I can help overcome the systemic inertia within local government processes that have slowed infrastructure provision.

**Support:** We support the elevation of infrastructure in the planning hierarchy and prioritisation as a positive step toward more strategic development. Our recommendations are intended to ensure the NPS is enforceable, implementation is not optional, and that incentives for councils are realigned to actively support infrastructure delivery. Without these enhancements, the goals of the policy may be undermined by local inertia or resistance.

**Recommendations:**

- Impose clear, binding obligations on councils to plan for, enable, and consent nationally or regionally significant infrastructure.
- Ensure prioritisation criteria are transparent, outcomes-focused, and linked to housing supply and economic development.
- Align local incentives with national goals, including options such as GST revenue sharing (so councils can share in the benefits of development and not just be loaded with the costs).

### 3.2 National Environmental Standards for Electricity Network Activities (NES-ENA)

**Overview:** This NES standardises planning controls for electricity network operations and upgrades, including line maintenance, vegetation clearance, and pole replacement.

Currently, electricity lines companies operate under a patchwork of local authority rules, creating inefficiencies and delays, particularly for minor upgrades or maintenance. The NES-ENA would enable more timely and cost-effective delivery of essential services, improving network resilience and reliability, which are critical as the electricity system transitions to support electrification and decarbonisation.

**Support:** We support the removal of duplicative and inconsistent rules, provided the property rights of landowners hosting infrastructure are not impaired without compensation.

### 3.3 National Policy Statement for Renewable Electricity Generation (NPS-REG)

**Overview:** This NPS updates and strengthens national direction for renewable electricity generation, supporting New Zealand's emissions reduction and energy security goals.

Renewable electricity projects face delays due to uncertainty around consenting processes, particularly where local plans lack clear guidance or are influenced by

overlapping landscape and heritage controls. A stronger national policy statement provides clarity and certainty for investors while reducing barriers to expanding renewable generation at scale.

**Support with qualification:** We support greater national direction to facilitate energy projects, including renewable generation. However, we consider that any smoother or streamlined regulatory pathways developed under this policy should be ‘technology-neutral’.

While renewable energy is important for decarbonisation, non-renewable energy projects may contribute to resilience, transitional supply, and affordability. National direction should not lock in preferences that limit flexibility or innovation in energy markets. We would prefer a technology-neutral approach and an emphasis on efficiency in consenting for all beneficial energy projects.

### 3.4 **National Policy Statement on Electricity Transmission / Networks (NPS-EN)**

**Overview:** This NPS strengthens planning protections for electricity transmission corridors and requires councils to prioritise grid upgrades in plan-making and consenting.

Electricity transmission infrastructure is vital for energy resilience and decarbonisation, yet it is often delayed or restricted due to inconsistent local planning decisions. The NPS-EN aims to provide a more coherent planning framework that ensures the national grid is recognised as essential infrastructure deserving of streamlined decision-making and long-term spatial protection.

**Support:** We support clarifying the importance of transmission corridors and upgrades, provided the property rights of landowners hosting infrastructure are not impaired without compensation.

### 3.5 **National Environmental Standards for Telecommunication Facilities (NES-TF)**

**Overview:** This NES creates consistent, nationally applied rules for deploying telecommunications infrastructure such as antennas, cabinets, and 5G equipment.

Digital infrastructure is foundational to a modern economy, yet planning processes can still inhibit the timely deployment of necessary upgrades and extensions. The NES-TF would reduce barriers to rolling out fast, reliable telecommunications infrastructure, particularly in areas where local consent requirements have proven burdensome or unpredictable.

**Support:** We support streamlining of rules for telecommunication facilities, provided the property rights of landowners hosting infrastructure are not impaired without compensation. It is important to remove unnecessary barriers that delay connectivity, innovation, and business efficiency.

### 3.6 National Environmental Standards for Granny Flats (NES-GF)

**Overview:** This NES would enable the development of minor residential units (e.g. granny flats or second dwellings) on existing residential lots, subject to infrastructure capacity.

Granny flats offer a low-cost, low-impact means of increasing housing supply and meeting diverse household needs. Yet local plans and rules often prohibit or overly restrict their development. A consistent national standard would facilitate gentle intensification and help address housing pressures without the need for major zoning changes.

**Support in principle:** We support increasing housing supply and flexibility. Our recommendations seek to expand the scope and impact of this reform by applying it more broadly and permitting more than one unit where appropriate. This would better respond to demographic changes and market demand, while ensuring councils do not unnecessarily constrain uptake.

**Recommendations:**

- Permit more than one unit per site where infrastructure allows.
- Extend to low-density, mixed-use, and rural-residential zones.
- Ensure these units are permitted activities, subject only to performance standards.

Note, the Initiative will have more to say on housing issues in its separate submission on Package 4 proposals for *Going for Housing Growth*.

### 3.7 National Environmental Standards for Papakāinga (NES-P)

**Overview:** This NES enables papakāinga housing on Māori land, streamlining planning rules to support cultural and social development.

Papakāinga housing is a vital expression of Māori tino rangatiratanga and provides culturally appropriate living options on whenua Māori. However, the diversity and inconsistency of local planning rules have created barriers to development. National standards would reduce those barriers, promote consistency, and support Māori aspirations for housing, whānau development, and land use.

**Support:** We support enabling Māori housing aspirations. As well as an NES-P, the government could also consider setting a pathway for iwi and hapu to provide their own zoning and consenting on land held as Māori reserves and under Māori land tenure, so they would not need to deal with councils for Papakāinga housing. The gold standard here should not be a national framework that overrides councils, it should be recognising rangatiratanga as allowing self-determination on Māori land.

### 3.8 National Policy Statement for Natural Hazards (NPS-NH)

**Overview:** This NPS outlines how natural hazard risks should be accounted for in land use planning and infrastructure decisions. The NPS-NH will not apply to infrastructure or primary production activities.

New Zealand's exposure to natural hazards requires thoughtful integration of risk into planning systems. However, inconsistent interpretations of hazard risk have often resulted in overly cautious or vague planning responses that frustrate development. A clearer national direction could improve consistency and allow better balancing of risk, cost, and the rights of landowners.

**Support in principle:** We support evidence-based hazard risk management.

The exemption of infrastructure and primary production activities is supported. We make the recommendations below to ensure hazard planning does not become a de facto mechanism to block development inappropriately. Hazard modelling is often subject to wide uncertainty, particularly for long-term risks. Councils must retain discretion to weigh the benefits of development against manageable risks, and the framework should empower affected parties to assume known risk in exchange for development opportunity.

We also note importance of pre-1989 flood control boards that allowed communities to figure out what was needed and how to deploy it. They might provide a more effective local model than regional councils.

### Integration and Implementation

3.9 Effective implementation will be crucial to realising the benefits of these national direction instruments. In the past, well-intentioned national direction has often been diluted or delayed at the local level due to ambiguous language, weak enforcement mechanisms, or poor alignment with local government incentives. To avoid repeating these issues, the following measures are essential:

3.10 We urge the government to:

- Ensure consistency and alignment across all national direction instruments to avoid contradictory requirements (e.g., intensification vs. hazard overlays). Where necessary, priority rules should clarify which instruments take precedence in case of conflict.
- That the property rights of landowners hosting infrastructure are not impaired without compensation.
- Introduce compliance monitoring and enforcement tools, including public reporting on council implementation and powers for the Minister to direct or override non-compliant local authorities.

- Require councils to update plans within fixed timeframes (e.g., within 18 months), with financial or regulatory consequences for failure to comply.
- Support implementation with clear national templates, technical guidance, and a centralised help desk for councils and developers.
- Include sunset or review clauses to ensure that each instrument is assessed after implementation to confirm that it achieves its intended outcomes and is not generating new barriers.
- Consider broader reforms to local government funding and accountability to better align local decisions with national goals, particularly in infrastructure and housing delivery.

#### 4. PACKAGE 2: PRIMARY SECTOR

This package contains eight proposals for national direction.

##### 4.1 National Environmental Standards for Marine Aquaculture (NES-MA)

**Overview:** Aquaculture is a growing industry with strong export potential and regional development benefits. Delays and inconsistencies in re-consenting can deter investment and prevent the sector from scaling. While some national consistency is appropriate, local environmental conditions vary considerably. Rigid national rules may over-regulate low-risk activities or stifle farm design and technology innovation. The NES-MA would streamline and standardise re-consenting processes for existing aquaculture farms and facilitate minor changes without full discretionary consent.

**Support in principle:** We support streamlined re-consenting and standardised frameworks, which improve regulatory certainty and investment confidence.

##### 4.2 National Environmental Standards for Commercial Forestry (NES-CF)

**Overview:** Commercial forestry is an important land use that contributes to emissions reduction, export earnings, and rural employment. Many of the NPS-CF's proposed amendments aim to ease overly stringent rules introduced in recent years. For example, they will limit councils' ability to add stricter rules, use risk-based slash management instead of blanket removal, and drop some afforestation plan requirements.

**Support:** We support the changes to the NPS-CF. Imposing large costs on foresters for little environmental gain is counterproductive. The new slash regime should continue to address environmental risk, but in a way that is proportionate and not 'overkill'.



### 4.3 New Zealand Coastal Policy Statement (NZCPS)

**Overview:** The revised NZCPS includes some welcome flexibility for infrastructure of regional or national significance, particularly where it has a functional need to be in the coastal environment or provides adaptation benefits, and for aquaculture. However, it maintains precautionary approaches to coastal development, reinforces climate adaptation objectives, including managed retreat, and introduces more nationally driven spatial planning requirements.

**Concern:** Continued precaution and central control risks eroding property rights and disincentivising productive coastal development. There is also insufficient attention to cost-benefit trade-offs or compensation for landowners affected by retreat policies.

Most coastal property owners will continue to face significant uncertainty under the current regime. Restrictions on development, especially those that mandate retreat or prohibit rebuilding, can strip property value without due process or compensation.

While climate adaptation is important, a blanket precautionary approach ignores site-specific resilience options and private willingness to bear risk.

The greater flexibility for priority activities is welcome but the exception is too narrowly drawn. It creates a two-tier system where government-backed or designated projects may proceed, while other developments (even those that are resilient, economically valuable, or community-oriented) face disproportionate barriers and impairments on their property rights.

The recently released report of the Independent Reference Group on Climate Adaptation made excellent findings and recommendations. It should help inform this NPS to the extent it relates to adaptation.<sup>1</sup>

#### **Recommendations:**

- Including explicit provisions for compensation or cost-sharing when private land use is restricted.
- Shifting emphasis from mandated retreat to adaptive decision-making frameworks informed by local context.
- Ensuring flexibility to support infrastructure and community investment in high-value coastal areas.
- Broadening the flexibility currently proposed for nationally significant infrastructure to allow for other development that demonstrates resilience, provides clear community or economic value, or incorporates adaptive design.

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<sup>1</sup> Independent Reference Group on Climate Adaptation (July 2025), *A Proposed Approach to New Zealand's Adaptation Framework*, <https://environment.govt.nz/assets/publications/climate-change/A-proposed-approach-for-New-Zealands-adaptation-framework-final.pdf>

#### 4.4 National Policy Statement for Highly Productive Land (NPS-HPL)

**Overview:** Updates existing NPS-HPL to include stronger controls to preserve highly productive land from urban encroachment and subdivision, even on peri-urban fringes.

**Oppose:** We do not support restrictions on land use to protect highly productive land. While food production is important, blanket protections risk entrenching artificial land scarcity at the rural-urban fringe and undermining housing affordability. They also undermine the property rights of landowners who might wish to change their land use or sell it to the highest bidder. Disallowing landowners to put their land to a more productive (valuable) use is a partial taking and the regulator is not faced with the prevention cost (to the owner and in aggregate to wider society) of the foregone opportunity to create value. It is therefore hard to understand how the NPS-HL is consistent with Phase 3 RMA reform, where the enjoyment of property rights is to be a central feature.

Urban expansion naturally occurs on the fringes of cities, which often overlaps with HPL. If the designation of HPL is used to freeze development irrespective of housing need or infrastructure efficiency, the cost of housing will rise. Productivity of land is not static. It depends on market conditions, infrastructure, and opportunity cost.

In a 2019 Cabinet paper to advance work on the NPS-HPL, Treasury stated its concern that *“the NPS has a weak problem definition and rationale for intervention. This creates risks of low benefits, high costs, unintended consequences, and risks to achieving other policy objectives. The Cost Benefit Analysis (CBA) did not quantify the costs of restricting urban development, owing to the assumption that urban development can be relocated without any cost”*.<sup>2</sup> The Ministry for the Environment and Ministry for Primary Industries did not agree and ultimately the NPS proceeded and was implemented in 2022.

We continue to share Treasury’s concern. Therefore, we believe there should not be an NPS-HPL.

The proposal to remove LUC class 3 land from the protections of the NPS-HPL is a modest step in the right direction. However, it retains protection for class 1 and 2 land on the periphery of urban areas that is ideal for housing development. Meanwhile, the parallel idea of ‘Special Agricultural Areas’ (targeted protections for key vegetable-growing regions) indicates an ongoing intent to constrain land use. We believe such special designations should not override pressing housing needs in high-demand areas.

While we do not support the continuation of the NPS-HPL, if the government decides it must continue, we submit there should be a ‘safety valve’. This would be market-responsive criteria that allow urban expansion onto HPL where housing need is acute.

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<sup>2</sup> Cabinet Paper, Public Consultation on the Proposed National Policy Statement for Highly Productive Land, August 2019. <https://www.mpi.govt.nz/dmsdocument/37065/direct/>

This could be achieved by adopting a relative land value ratio between land inside and outside an urban boundary. If the ratio is above a set threshold, it would trigger the ability for a landowner to put forward a private plan change for the land in question.

Other options to balance development and protection goals might include offsetting mechanisms or tradable development rights. And if an NPS-HPL is to persist, any protection designations should also require robust economic analysis.

**Recommendations:**

- Repeal the NPS-HPL.
- Where housing demand is strong and infrastructure is feasible, the market should be allowed to determine land use.
- Any national direction should ensure that, where landowners are willing to change their land use, housing growth is not unduly constrained by rigid classifications.
- Introduce market-responsive criteria that allow urban expansion onto HPL where housing need is acute, such as a threshold for relative land values and the ability for a private plan change if the threshold is breached.
- Consider offsetting mechanisms or tradable development rights to balance development and protection goals.
- Require economic analysis to accompany land protection designations.

#### 4.5 **Quarrying and Mining Provisions**

**Overview:** Quarrying and mineral extraction are essential to infrastructure, housing, and industrial development. The current planning regime too often treats extraction as a nuisance rather than a necessity, resulting in supply bottlenecks and long-distance transport of aggregate. Enabling nearby, cost-effective extraction is in the public interest. The consultation document proposes integrating clearer enabling provisions across national direction instruments to support resource supply chains.

**Support:** We support recognition of quarrying and mining as regionally and nationally significant activities.

#### 4.6 **Stock Exclusion Regulations**

**Overview:** The primary objective of stock exclusion is to improve freshwater quality. However, prescribing fencing distances and timelines without regard to topography, stock type, or farm system leads to inefficiency and unnecessary cost. Better environmental outcomes can often be achieved through tailored approaches that reflect real risks and encourage innovation. Revisions aim to refine buffer widths, exemptions, and implementation timeframes, but the overall regulatory model remains largely prescriptive.

**Support:** We support the changes. However, a one-size-fits-all approach might still impose costs in low-risk farming contexts and discourage innovation or targeted water quality outcomes.

**Recommendations:**

- Allow regional councils discretion to tailor buffer requirements.
- Permit outcome-based alternatives where water quality targets are met through other means, including economic instruments.

**Integration and Implementation**

4.7 The proposed changes to national direction instruments for the primary sector intend to clarify and rationalise environmental management. However, several instruments risk reinforcing regulatory rigidity, undermining flexibility and investment certainty. There should be a sharper focus on market-responsive mechanisms, regulatory efficiency, and protection of private property rights to ensure the system supports both environmental outcomes and economic resilience. Specifically:

- Many proposals seem to focus on mandates rather than aligning incentives. We recommend exploring outcome-based approaches and using economic instruments like tradable environmental credits, offset systems, or co-funding models.
- Proposals that reduce land use rights without compensation (especially the NPS-HPL but also the NZCPS) are concerning. Compensation mechanisms or alternative property protections should be considered.
- National direction layering risks increasing system complexity. A rationalisation programme to repeal or consolidate outdated or redundant instruments should accompany these reforms.
- The Initiative supports hard statutory timelines for consenting processes, use of templates, and standardised assessment criteria to reduce uncertainty and costs. The replacement of the RMA provides the opportunity for this.

**5. PACKAGE 3: FRESHWATER MANAGEMENT**

There are several aspects to the Freshwater Management consultation document.

**5.1 Rebalancing Freshwater Management Through Multiple Objectives**

**Overview:** The current National Policy Statement for Freshwater Management (NPS-FM) operates under a single objective that establishes a rigid three-tier hierarchy: first, the health and well-being of water bodies and freshwater ecosystems; second, the health needs of people; third, the ability of people and communities to provide for their social, economic, and cultural well-being.

This hierarchy has been interpreted by councils and courts as requiring pristine water quality before allowing any economic uses of freshwater, creating a regulatory framework that effectively prohibits balanced decision-making. The consultation document proposes replacing this single objective with multiple objectives requiring councils to provide for environmental protection, social and cultural well-being, and economic development equally, while explicitly considering the costs and timeframes for achieving environmental outcomes.

**Strongly Support:** We support replacing the current single objective with multiple objectives that treat environmental, social, cultural, and economic factors equally. The current hierarchy imposes an overly rigid 'environment-first' approach that precludes balanced consideration of economic and community needs.

We support enabling economic well-being, recognising productive economic opportunities as legitimate alongside environmental protection. There is also an important acknowledgement that environmental improvement requires iterative, long-term investment rather than immediate compliance. However, we believe supporting this with strong economic analysis is important.

**Recommendation:**

- Require economic impact assessment. All freshwater objectives should require quantified cost-benefit analysis, including direct compliance costs for businesses and councils, indirect economic effects on employment and investment, opportunity costs of foregone development, and regional economic distribution impacts.

## 5.2 Rebalancing Te Mana o te Wai

**Overview:** Te Mana o te Wai (TMotW) was introduced into the NPS-FM in 2014 and revised in 2017 and 2020. The 2020 version is a concept referring to the fundamental importance of water. It includes a three-tier hierarchy of obligations, plus six principles describing the role of people in freshwater management and requirements for councils to actively involve tangata whenua in decision-making. Various provisions throughout the NPS-FM reference this concept, making it operational in consent decisions and planning processes.

We support the intent to rebalance TMotW and ensure freshwater regulation reflects environmental and human needs. We particularly support:

- Providing for regional flexibility and pragmatic timeframes to achieve freshwater objectives.
- Removing unnecessary consent requirements for common farming practices.
- Enabling water storage to build resilience to drought and climate variability.

The consultation document proposes three options: removing the hierarchy while retaining principles and consultation requirements (Option 1), reverting to the 2017 narrative guidance approach (Option 2), or completely removing TMotW provisions (Option 3):

- Option 1: Remove hierarchy of obligations and clarify how TMotW applies: This option's retention of TMotW's six principles and consultation requirements would maintain significant compliance burdens while potentially increasing uncertainty. Without clear hierarchical guidance, consent applicants face unpredictable interpretations that could vary dramatically between regions and decision-makers. This would force businesses to navigate complex cultural assessments without knowing the weighting these will receive against economic considerations. The result is likely higher legal costs, longer processing times, and continued investment uncertainty undermining New Zealand's competitive position.
- Option 2: Reinstate TMotW provisions from 2017: A return to the 2017 framework offers some regulatory relief by treating TMotW as guidance rather than binding obligation. This would restore councils' discretion to weigh economic benefits more equally against environmental considerations. However, this option retains cultural consultation requirements and maintains freshwater as a special category requiring additional assessment layers. The 2017 approach represents only partial relief for businesses seeking streamlined consenting processes. Moreover, the transition costs of reverting regional plans would impose immediate compliance burdens on ratepayers and businesses alike, with uncertain outcomes given the policy instability this reversal would signal.
- Option 3: Remove TMotW provisions: By completely removing TMotW, this approach treats freshwater like other natural resources under standard RMA processes, eliminating layers of cultural assessment and consultation that add significant time and cost to consent processes. Option 3's approach would restore councils' ability to prioritise economic development where appropriate, enabling primary sector growth essential for New Zealand's export economy. While TMotW expresses important cultural and environmental principles, we believe the way it is currently operationalised creates unacceptable uncertainty and cost. Therefore, Option 3 – removing those provisions – is preferable to achieve clarity and growth.

**Support for Option 3:** We support Option 3, the complete removal of TMotW provisions. Regardless of modifications proposed in Options 1 and 2, the current framework maintains fundamental impediments to efficient resource allocation and economic growth. New Zealand's competitive advantage is grounded in our productive capacity, which should not be eroded by excessive regulatory complexity. The current framework, regardless of modifications proposed in Options 1 and 2, maintains fundamental impediments to efficient resource allocation and economic growth.

New Zealand's competitive advantage is grounded in our productive capacity, and this should not be eroded by excessive regulatory complexity. Complete removal of TMotW would restore the regulatory certainty businesses need to invest, expand, and create jobs while ensuring councils retain appropriate environmental protections through standard RMA processes.

Our alternative to TMotW is to emphasise the importance of property rights (including those of Iwi and Māori interests) and use price-based instruments where practicable.

The Initiative's 2019 *Refreshing Water: Valuing the Priceless* and 2021 *Fording the Rapids* reports both advocate for cap-and-trade economic instruments as a foundation for improved freshwater management.<sup>34</sup> Within this framework, the interests of iwi and Māori can be protected and enhanced in several meaningful ways.

First, both reports explicitly recognise that unresolved iwi rights and interests in freshwater are a core barrier to durable freshwater reform. The 2019 report states that “*resolving iwi water rights is important in its own right and may be critical in shifting to any management scheme that sets catchment-level nutrient or water-draw allocations*”. It supports allocation frameworks that include room for iwi entitlements and proposes that caps on water use be determined jointly with iwi and hapū, informed by mātauranga Māori alongside environmental science.

Second, the cap-and-trade framework proposed by the Initiative offers iwi a pathway to participate in, and benefit from, freshwater governance and resource use. Iwi and hapū could receive initial allocations of tradeable water or nutrient discharge rights. These rights could be used, held in trust, or traded to generate revenue for iwi development or environmental restoration. This flexibility acknowledges the dual cultural and commercial interests iwi may hold. Moreover, by embedding iwi participation and ownership into the system's design, the approach encourages a mechanism that redresses historical exclusion from resource management and provides tangible levers for self-determination.

The Initiative's economic instruments framework offers a pragmatic way to embed iwi rights, enhance freshwater management, and support Māori economic and environmental aspirations.

### 5.3 National Objectives Framework:

**Overview:** The National Objectives Framework (NOF) has provided a consistent process for setting environmental limits at the catchment level since 2014. It requires councils to identify values (what communities want from their freshwater), set attributes (measurable characteristics like nutrient concentrations), establish targets (environmental limits), and monitor outcomes.

Currently, councils must provide for four compulsory values (ecosystem health, human contact, mahinga kai, and threatened species) and may consider nine optional values. The framework includes national bottom lines for certain attributes that councils cannot go below, as well as detailed monitoring methods that councils must follow.

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<sup>3</sup> The New Zealand Initiative (2019). *Refreshing Water: Valuing the Priceless*, <https://www.nzinitiative.org.nz/reports-and-media/reports/refreshing-water-valuing-the-priceless>.

<sup>4</sup> The New Zealand Initiative (2021), *Fording the Rapids: Charting a Course to Fresher Water*, <https://www.nzinitiative.org.nz/reports-and-media/reports/fording-the-rapids/>

The consultation document proposes increasing flexibility by making more values optional; allowing councils to manage fewer attributes based on local conditions; and enabling deviation from nationally defined thresholds and monitoring methods in certain circumstances.

**Support:** We support increased flexibility in the NOF, but we suggest further enhancements below.

**Recommendations:**

- All standards are required to undergo regular review with evidence-based justification for retention, preventing regulatory accumulation and enabling adaptive management.
- Ensure standards focus on outcomes rather than prescribing specific methods, encouraging innovation and efficiency.

#### 5.4 **Commercial Vegetable Growing**

**Overview:** Commercial vegetable growing is concentrated in specific regions with suitable growing conditions, covering a small land area but critical domestic food supply. Unlike other primary sectors focused on exports, 80% of New Zealand's vegetables serve the domestic market, making regulatory constraints a direct threat to food security and consumer costs. Current regional planning rules often lack 'permitted activity pathways' for vegetable growing, forcing growers through expensive and uncertain consent processes that can take years and cost hundreds of thousands of dollars.

The consultation document proposes two options: including vegetable growing as a priority objective in the NPS-FM to guide council decision-making (Option 1) or developing new national standards that permit commercial vegetable growing without consent requirements (Option 2).

**Support in principle:** We prefer Option 2, developing new national standards that permit commercial vegetable growing as essential for food security and economic efficiency. However, while supporting regulatory relief for vegetable growers, we recommend extending permitted activity status to all productive farming activities with minimal environmental risk – creating sector-specific privileges sets concerning precedent for ongoing regulatory capture.

#### 5.5 **Water Security and Water Storage**

**Overview:** New Zealand faces increasing water security challenges as climate change creates more variable precipitation patterns and extreme weather events. Many regions experience seasonal water shortages that constrain economic activity and threaten business continuity. Water storage infrastructure, particularly off-stream storage such as farm ponds and industrial reservoirs, could provide crucial resilience while having minimal environmental impact compared to in-stream damming.



However, current regulatory frameworks create significant barriers to water storage projects through complex consent processes, cultural assessments, and unclear standards. The consultation document proposes introducing water security as an explicit objective in freshwater planning and developing national standards for off-stream water storage that permit construction without individual consent requirements, provided certain environmental conditions are met.

**Strongly support:** We strongly support removing regulatory barriers to water storage, but we suggest additional market-based mechanisms to ensure greater efficiency.

#### **Recommendations**

- Establish clear property rights and trading mechanisms for water allocation, enabling efficient market-based allocation.
- Ensure water users pay infrastructure costs directly, creating proper incentives for efficient use and investment.

### **5.6 Wetlands Provisions**

**Overview:** The current wetland framework, introduced in the 2020 National Environmental Standards for Freshwater (NES-FW), established comprehensive protection for ‘natural inland wetlands’ while excluding areas ‘dominated by pasture grasses’. This definition has created significant compliance challenges requiring expensive ecological assessments to determine whether regulations apply, often protecting artificial wetlands created by infrastructure failures or human activity. The framework prohibits most activities within wetlands and their margins, makes farming activities like irrigation and fencing very difficult, and requires councils to map all natural inland wetlands by 2030 at enormous cost.

The consultation document proposes several simplifications: defining and excluding ‘induced wetlands’ (those created unintentionally by human activity); removing the pasture exclusion while creating clearer farming activity pathways; enabling wetland construction for environmental mitigation; and removing the 2030 mapping deadline that is proving impossible for many councils to meet.

**Supports:** We support the proposed wetland simplifications as necessary corrections to regulatory overreach that protects artificial features while imposing massive compliance costs. However, they should also include compensation mechanisms.

#### **Recommendation:**

- Wetland reforms should also include compensation mechanisms when regulations significantly reduce property values, consistent with principles of fair treatment and democratic accountability.

### **5.7 Fish Passage Regulations**

**Overview:** Fish passage regulations in the NES-FW require extensive information for any in-stream structure construction, including detailed engineering specifications, materials data, and environmental assessments that often do not directly relate to fish passage effectiveness. These requirements significantly increase infrastructure costs and project timelines for essential works like road culverts, utility crossings, and flood protection.

The consultation document proposes streamlining fish passage information requirements to focus only on factors that affect fish movement.

**Support:** We would support the simplification of fish passage regulations.

## 5.8 Fertiliser Regulations

**Overview:** Farmer-facing regulations include a 190kg per hectare per year limit on synthetic nitrogen fertiliser application and requirements for dairy farms to provide detailed fertiliser purchase receipts annually. The nitrogen limit was introduced to signal acceptable use levels, but fertiliser use has already declined significantly through market forces and improved farm management practices.

The consultation document offers three options for nitrogen regulations: removing receipt requirements (Option 1); aligning reporting dates with farming calendars (Option 2); or removing the nitrogen limit entirely (Option 3).

**Support Option 3:** We support removing nitrogen fertiliser restrictions. Market incentives and technological advancement will reduce fertiliser use more effectively than arbitrary regulatory limits.

## 5.9 Drinking Water Source Mapping:

**Overview:** The 2017 Havelock North Drinking Water Inquiry recommended requiring councils to map source water risk management areas (SWRMAs) around drinking water supplies to provide regulatory certainty about where protective restrictions apply. Currently, consent authorities must determine on a case-by-case basis whether activities could affect drinking water sources, creating uncertainty for both applicants and decision-makers.

The consultation document proposes requiring regional councils to map SWRMAs for drinking water sources serving populations above a certain threshold (potentially 100-500 people) within five years, using standardised methodologies that identify three risk zones around water intakes. This mapping would clarify where the existing National Environmental Standards for Sources of Human Drinking Water (NES-HDW) apply, potentially affecting resource consent requirements for activities like intensive farming, waste management, and industrial operations near water sources.

**Support:** We support drinking water source mapping to provide regulatory certainty while recommending implementation approaches that minimise costs and maximise business predictability.

## **Integration and Implementation**

- 5.10 These freshwater reforms represent essential progress toward evidence-based resource management that balances environmental protection with economic growth.
- 5.11 We submit that the reforms must be designed to be consistent with the direction and principles underpinning RMA replacement. That said, they should be implemented immediately due to the regulatory burden they are imposing.
- 5.12 The government should also:
- Strengthen reforms with mandatory economic impact assessments.
  - Accelerate comprehensive RMA replacement based on property rights and evidence-based policy.
  - Enable regulatory competition between regions to identify best practices.
- 5.13 We submit that environmental protection can be enhanced through greater use of economic instruments. As stated elsewhere in this submission, including the discussion above on rebalancing TMotW, the Initiative strongly supports using such instruments, including trading schemes, to improve water allocation and water quality. Its reports *Refreshing Water: Valuing the Priceless* (2019) and *Fording the Rapids: Charting a Course to Fresher Water* (2021) provide more information on how these could work.
- 5.14 We strongly recommend that the government consider how economic instruments can be incorporated into regulatory regimes to manage freshwater.

## **6. COMPENSATION FOR REGULATORY TAKINGS**

- 6.1 We note with concern that the Ministry's consultation documents are silent on compensation for partial regulatory takings where landowners' rights to develop or use their land are significantly constrained by national direction but without formal acquisition or expropriation.
- 6.2 A well-functioning property rights system includes appropriate safeguards where the state imposes burdens that materially reduce the value or utility of private property. While not all regulatory restrictions will or should attract compensation, there should be a clear and principled framework for recognising and mitigating serious economic losses caused by planning constraints imposed in the public interest.

6.3 For a principled property rights framework to be comprehensive, it should include recognition that designation or restriction of land use often generates a betterment – an uplift in value due to future development opportunity on the balance of the parcel that mirrors any diminution from the reservation itself. Compensation should therefore be linked with betterment, reflecting the ‘symmetry of value equalisation’ already enshrined in the Public Works Act.<sup>5</sup>

### **Mirror Principle – Balancing Compensation and Betterment**

6.4 Under the mirror principle, compensation payments are explicitly offset by betterment gains, ensuring landowners are neither worse nor better off overall. For example, this can be applied to corridor reservation practice: narrow strips of land can be designated for future infrastructure without immediate payment on the basis that owners’ larger parcels accrue uplift in development potential. This broad approach enables governments worldwide (central and local) to affordably ‘make room for growth’ through spatial planning.

### **Statutory Triggers for Mirror-Balanced Compensation**

6.5 We urge the government to explore options for compensation or mitigation where national direction results in substantial restrictions on land use. This could include:

- Statutory triggers for compensation where permitted baseline rights are removed.
- Rate relief or offsets for affected landowners.
- Targeted buyouts or compensation schemes where land value is impaired by high-value environmental protections.

6.6 Compensation entitlements (e.g., for baseline-use constraints) should be reduced in proportion to captured betterment on the remaining land.

6.7 Where full monetary compensation is impracticable, mitigation measures – such as rate relief, offsets or targeted buy-outs – should be explicitly calibrated to betterment-based assessments.

6.8 We further recommend that the new resource management regime adopt a more transparent approach to regulatory impacts on landowners:

- All compensation and mitigation schemes should transparently report both the loss (compensation) and the gain (betterment) to preserve fiscal accountability and public confidence.

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<sup>5</sup> Public Works Act 1981, section 62, Assessment of Compensation, <https://www.legislation.govt.nz/act/public/1981/0035/latest/DLM46358.html>

- Where restrictions amount to partial takings, affected property owners should not bear the full cost of delivering public goods.

## **7. CONCLUSION**

7.1 We support the direction of reform reflected in these proposed national direction changes. They are a welcome step toward a more rational, efficient, and property-rights-based resource management system. If refined as suggested, the proposals will achieve a more open, prosperous, and fair society.

7.2 We urge the government to proceed with implementation.

**ENDS**