MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

COVERSHEET

Minister	Hon Simeon Brown	**Portfolio**	Energy
Title of Cabinet paper	Delivering a More Effective Energy Efficiency Regime	**Date to be published**	6 November 2024

List of documents that have been proactively released		
Date	**Title**	**Author**
August 2024	Delivering a more effective energy efficiency regime	Office of the Minister for Energy
21 August 2024	Delivering a more effective energy efficiency regime ECO-24-MIN-0162 Minute	Cabinet Office
13 August 2024	Regulatory Impact Statement - Delivering a more effective energy efficiency regulatory regime	Ministry of Business, Innovation and Employment

Information redacted **YES / NO**

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[In Confidence]

Office of the Minister for Energy

Cabinet Economy Policy Committee

DELIVERING A MORE EFFECTIVE ENERGY EFFICIENCY REGULATORY REGIME

Proposal

1 This paper seeks Cabinet agreement to create greater regulatory efficiencies and future-proof New Zealand's energy efficiency regulatory regime, and authorisation to issue drafting instructions for the Energy Efficiency and Conservation Amendment Bill (the Bill) to give effect to these proposals.

Relation to government priorities

2 A modern, affordable, and secure energy system is fundamental to building a resilient and productive economy. Energy efficiency and demand flexibility will play an important role in achieving the Government's Net Zero 2050 target, Government Target 9 and Pillar 3 of the Government's Climate Strategy (Clean Energy is Abundant and Affordable).[1] In December 2023, New Zealand also signed a global pledge at the 28th United Nations climate meeting (COP28) to collectively double energy efficiency improvements by 2030.

3 The proposals in this paper will support electricity affordability, security of supply and emissions reductions by maximising the use of existing renewable energy and reducing the need for expensive generation and network upgrades. Amendments to the Energy Efficiency and Conservation Act 2000 (the Act) are also part of the Government's priorities for the Supercharging Electric Vehicle (EV) Infrastructure [CAB-24-MIN-0123] and Electrify NZ work programmes.

4 The proposals align with the Second Emissions Reduction Plan consultation document, which proposes these amendments as part of the Government's work to enable energy efficiency and a smarter electricity system.

Executive Summary

5 The Act provides the statutory basis for promoting energy efficiency, energy conservation, and the use of renewable energy in New Zealand. It allows minimum energy efficiency standards and labelling requirements to be set for energy-using products and services, including vehicles.

[1] Under the Climate Change Response Act 2002, New Zealand has a domestic target of achieving net zero emissions of all greenhouse gas emissions (other than biogenic methane) by 2050. Government Target 9 sets a target of total net emissions of no more than 290 megatonnes from 2022 to 2025 and 305 megatonnes from 2026 to 2030.

6 The Act is no longer fit for purpose. While New Zealand's energy efficiency regulatory regime is broadly aligned with Australia's energy efficiency regime through the Trans-Tasman Equipment Energy Efficiency (E3) Programme,[2] operational constraints in our regime mean that we are failing to keep pace with Australia and other developed countries, resulting in regulatory divergence. In addition, the New Zealand regime does not adequately support the Government's priorities, including for EV smart charging. There is a risk that without amendment, the Act will stop providing the significant energy and cost savings for consumers it has delivered for the past 20 years and will not be able to support Electrify NZ.

7 The proposals in this paper intend to bring New Zealand's regime more in line with Australia's where possible and create greater regulatory efficiencies. They will deliver a more effective regime that can respond to the latest market developments and support a smarter electricity system.

8 The proposed amendments support two core objectives:

- Streamlining processes to make sure we keep pace with other developed countries (including Australia) and have a fit-for-purpose regime.
- Future-proofing the regime by setting standards for demand flexibility and energy systems and addressing existing loopholes. Demand flexibility is the ability for consumers to use smart devices, such as EV chargers, to shift their electricity use away from peak times.

9 Once the proposed amendments to the Act and regulations have been made, the Energy Efficiency and Conservation Authority (EECA) will develop New Zealand's regulatory approach to EV smart chargers.[3]

Background

Energy efficiency will be critical to electrifying New Zealand

10 New Zealand's energy system is undergoing a period of significant change as we transition to Net Zero 2050. The electrification of the economy, particularly the light-vehicle fleet, will deliver emissions reductions, but also place significant additional pressure on our electricity system.

11 Energy efficiency enables electrification by helping maximise the use of existing renewable energy and reducing the overall need for generation and network upgrades across the electricity system.

12 Developed countries like New Zealand are prioritising energy efficiency to address affordability challenges and ensure security of supply through to 2050. This also aligns with advice from the International Energy Agency, which views energy efficiency as the 'first fuel' of the energy transition.

[2] This includes being broadly aligned on 12 individual product standards.
[3] The Australian Federal Government has yet to develop standards for EV smart chargers. Officials will work closely with Australian counterparts to ensure Trans-Tasman regulatory alignment as work progresses.

New Zealand's energy efficiency regulatory regime should align more closely with Australia's

13 There are operational constraints within government that are causing divergences with Australia's energy efficiency regime and limiting the pace at which New Zealand can adopt new technical requirements.

14 New Zealand's regime gives effect to the Trans-Tasman E3 Programme. The E3 Programme enables alignment of Trans-Tasman energy efficiency regulation in support of the Trans-Tasman Mutual Recognition Arrangement (TTMRA). The E3 Programme helps New Zealand consumers benefit from the economies of scale of a single economic market with Australia. Where possible, the E3 Programme aligns standards with those of other jurisdictions and best practice guidance from the International Energy Agency.[4]

15 While New Zealand and Australia's energy efficiency regimes are already well aligned, divergences remain which limit our ability to adopt new energy efficiency measures at the same pace as Australia. These divergences are caused by inefficiencies in updating the technical requirements for regulated products in the New Zealand system, as well as differences in scope. For example, New Zealand is currently behind Australia on 10 individual product standards due to the time it currently takes to introduce new requirements into the New Zealand regime.

16 Strengthening New Zealand's regulatory alignment with Australia will increase the benefits of the E3 Programme through reducing costs for businesses, increasing our capacity to respond to changing international regulatory best practices, and delivering more seamless Trans-Tasman trade.

The Energy Efficiency and Conservation Act 2000 has saved energy and money but needs modernising

17 The Act provides the basis for regulating energy-using products and services by allowing minimum energy performance standards (MEPS, or minimum standards) for energy-using products and labelling requirements for products and vehicles. The 98 million regulated products sold in New Zealand since 2002 have saved 94.5 petajoules of energy, equating to 3.5 million tonnes of carbon dioxide equivalent (CO_2e) and $2.3 billion of national benefit.[5]

18 However, the system-level benefits of energy efficient devices (including lowering network and generation costs) only accrue if they are widely adopted. The regulatory regime is out of date and has not been substantially amended since its introduction in the early 2000s.

19 The regime needs to support a smarter electricity system with demand flexibility capability. Demand flexibility is particularly important for managing the electricity system's periods of peak demand and to support intermittent

[4] There are no international standards for energy efficiency. However, over 100 countries rely on mandatory energy performance standards and/or labelling requirements to deliver efficiency gains in their economies.
[5] Savings achieved: https://www.eeca.govt.nz/insights/eeca-insights/product-sales-decrease-but-energy-efficiency-improves/.

renewables – this supports more efficient system utilisation and reduces costs in a period of increasing energy and related infrastructure costs. Electricity networks, users, and the energy sector are calling for demand flexibility standards, because standards will ensure devices can communicate with each other consistently and allow consumers to shift their energy use away from peak times. The United Kingdom has already regulated to require that EV chargers have smart capability and other countries (including Australia) are considering setting standards.

I propose progressing amendments where consistent with Government priorities

20 In June 2023, the previous Government agreed a suite of amendments to the energy efficiency regulatory regime [CAB-23-MIN-0263 refers] [6]. However, changes to the previous Cabinet decisions are needed to ensure the amendments are consistent with this Government's priorities. Therefore, I am seeking Cabinet agreement to rescind the decisions set out in ENV-23-MIN-0020 and propose a revised set of amendments to the Act, set out in this paper.

Objectives of the reforms

21 The proposals in this paper aim to create a more effective energy efficiency regulatory regime (the regime) that can support progress towards Net Zero 2050, Electrify NZ, and the Supercharging EV Infrastructure work programme. The proposals will improve the regulatory framework by:

- **Streamlining processes** – removing unnecessary 'red tape' so we keep pace with other developed countries (especially Australia) and have a fit-for-purpose regime that meets modern legislative design principles.

- **Future-proofing the regime** – ensuring it has the scope and flexibility to respond to technological developments and closing existing loopholes, enabling a smarter energy system and unlocking electrification as a result.

22 I am seeking Cabinet's agreement to these proposals and authorisation to issue drafting instructions for the Energy Efficiency and Conservation Amendment Bill (the Bill) to give effect to these objectives. The Bill has been designated Category 6 priority in the 2024 Legislative Programme, with drafting instructions to be provided to the Parliamentary Counsel Office (PCO) before the end of 2024. Parliamentary processes will follow in 2025, and changes to the Act could be enacted by January 2026.

[6] The previous Government agreed to this package of amendments alongside additional proposals, including: broadening the Act to include greenhouse gas emissions, a mandatory register for regulated products, and a stronger compliance, monitoring and enforcement regime.

Streamlining the regime's processes

The process for setting highly technical requirements should be more efficient

23 I propose that the power to set technical requirements for MEPS, demand flexibility, testing and labelling be delegated to the Minister for Energy and that these requirements be made by secondary legislation (rules), drafted by EECA.[7]

24 This proposal is key to strengthening regulatory alignment with Australia and will deliver greater benefits from the economies of scale we already benefit from under the TTMRA and the E3 Programme.

25 Under the current system, New Zealand's regime cannot set new technical requirements at the same speed as Australia's. These delays cost us: the estimated lost energy savings because of delays in adopting regulatory requirements for household fridge-freezers that Australia adopted in 2021 is around 300 GWh – or the annual electricity usage of 37,000 households.

26 Under the Australian regime, the Minister for Climate Change and Energy uses technical determinations under the Act, prepared by the Australian energy efficiency regulator[8], to give effect to E3 programme policy. Cabinet approval is not required for highly technical issues and the regulator can implement technical decisions quickly.

27 In comparison, the technical requirements for specific energy-using product classes in New Zealand are drafted directly into the Product Regulations by the Parliamentary Counsel Office (PCO) and put to Cabinet for approval. This results in longer lead times for the introduction of new requirements and a greater drafting burden for PCO, who are required to spend considerable time on highly technical material better suited to being drafted by agencies with technical expertise in the subject. The 10 individual product standards referenced in paragraph 15 are an example of how the current processes limit the efficiency of the regime as a whole.

28 Under the new system, Cabinet will still decide which energy-using products, services and systems will be specified in regulations as subject to MEPS, demand flexibility, and testing and labelling requirements, while the specific requirements will be set in rules. This aligns with PCO's approach to determining who drafts legislation and is similar to arrangements for other Regulatory Crown Entities, including the New Zealand Transport Agency.

29 The Legislation Design and Advisory Committee recommended that officials consider whether the Act should allow regulations to manage and control what requirements should be placed in rules. Officials will consider this during the drafting process.

[7] The proposal to introduce requirements for demand flexibility are detailed at paragraphs 38 – 42.
[8] EECA's equivalent in Australia is the Department of Climate Change, Energy, the Environment and Water (DCEEW).

The regime should take into account international best practice when setting technical requirements

30 When setting technical requirements in rules, I propose that the Minister for Energy must have regard to relevant international energy efficiency standards, as well as New Zealand standards and joint New Zealand-Australia standards.

31 This will ensure EECA has regard to energy efficiency and demand flexibility requirements in Australia and other jurisdictions, such as the United States and European Union, when developing technical requirements for products sold in New Zealand.

The regime will incorporate material by reference where appropriate

32 International standards and technical requirements can be incorporated into secondary legislation by reference, where appropriate, through the relevant provisions of the Legislation Act 2019 and the Standards and Accreditation Act 2015. Existing Regulations under the Act already reference joint New Zealand-Australia standards for various products. I expect EECA to consider incorporating international material by reference before developing any new technical requirements in secondary legislation in future.

Energy performance testing requirements should reflect the real-life overall performance of a product

33 I propose to amend the Act to clarify that when the Minister sets rules, the requirements associated with those rules may also include testing requirements related to the overall performance of the energy-using product, system or service.

34 This will include enabling the prescribed testing methods for a product, system or service to be linked to its core function through settings, features or cycles that reflect real world use. For example, a prescribed method for testing the energy efficiency of a dishwasher should specify that product testing against energy efficiency requirements includes procedures to verify that it is effectively cleaning dishes on a standard cycle.

35 Without this clarification, there is a risk that an energy efficiency rating loses its value for the consumer because the regulated item is not performing its core function adequately. EECA has encountered situations where products meet minimum energy efficiency standards but are effectively unusable when in operation. This proposal is consistent with the sustainability principles under Section 6 of the Act.

The Act's definition of 'publicly notify' is out of date

36 In order to align with modern public consultation requirements, I propose to amend the Act to require that:

- For any new regulations or changes to existing regulations, a notice must be published in the Gazette, or in one or more newspapers circulating in the area, or on the website of the agency administering the Act (the Ministry of Business, Innovation and Employment)

- For any new rules or changes to existing rules, a notice must be published in the Gazette and on EECA's website.

37 The Act currently requires the Minister, before making regulations under the Act, to publicly notify the proposal to make regulations. However, the current definition of 'publicly notify' in the Act does not align with modern public consultation requirements set out above.

Future-proofing the regime

Standards for demand flexibility are needed to enable EV smart charging in New Zealand

38 I propose to amend the Act to enable demand flexibility capability requirements to be set for energy-using products, services and systems. These would be set in rules, described in paragraphs 23 - 29 above.

39 Globally, energy efficiency regimes are broadening in scope to include demand flexibility. Demand flexibility can help electricity networks manage increasing demand by shifting when devices are charged or in use. This allows households to reduce their energy bills by avoiding times when electricity prices are high. As New Zealand's economy electrifies, greater uptake of demand flexibility could help lessen electricity system upgrade costs to deal with the growth in electricity demand. New Zealand's electricity sector is advocating for our regulatory regime to include appropriate standards in this area, including for EV chargers.

40 Enabling EV charger standards is also a part of the Supercharging EV Infrastructure work programme agreed by Cabinet. Amending the Act will allow minimum standards to be set for demand flexibility-capable products like EV chargers, including common communication protocols and the ability to operate with other energy using products.

Case study – Demand flexibility standards for EV smart chargers
Common energy-using products (i.e., 'dumb' products) are manually adjusted or turned on and off by consumers when in use. For example, an EV is plugged into an EV wall charger when it needs charging. 'Dumb' EV chargers cannot communicate with and respond to local electricity networks when external signals (e.g., higher prices) are sent in response to a constraint in the electricity system, such as tight supply. In contrast, EV chargers with demand flexibility capability (i.e., 'smart' chargers) can respond to external signals by automatically adjusting when they are in use. This is particularly important during periods of tight electricity supply.

As the market for 'smart' devices like EV chargers grows in New Zealand, minimum standards will be important to ensure they are functioning correctly and effectively reducing demand on the electricity grid during periods of constraint. Standards for smart EV chargers could, for example, include:

- Interoperability standards – ensuring chargers can respond to signals from different parts of the electricity system.
- Common communication protocols – ensuring chargers communicate in the same way as other parts of the system, including electricity lines companies.

Without these standards, there is a risk particular models of smart devices will not be compatible with grid technologies, diminishing the pool and effectiveness of smart products which can reduce demand on the electricity grid. Recent modelling suggests that the widespread use of smart EV chargers could save $4 billion in network costs by 2050.[9] This will benefit consumers who pay part of these electricity costs in their bills.

There may also be a risk of competition issues if manufacturers develop non-standardised proprietary systems that lock in consumers and prevent them from switching electricity retailers or easily replacing their appliances.

41 The Bill is intended to provide the enabling provisions for technical requirements for demand flexibility. The EV standards work programme will assess a range of options including interoperability and communication protocol standards, mandating for EV smart chargers, and non-regulatory options. EECA has already developed some technical standards for EV smart chargers that are currently voluntary. However, further consideration of using a mandate to achieve a critical mass of demand flexible devices in the market is needed. This should consider trends in technologies and how they will evolve over time; the costs and benefits for businesses and consumers; approaches to the same challenge internationally; and the appropriate scope of any future requirements.

42 I will consider how to best to utilise the enabling provisions proposed in this paper and report back to Cabinet on an approach to regulating EV smart chargers in due course.

The Act should allow for the future regulation of energy-using systems

43 I propose to amend the Act to allow regulations to be made in future (if required) to specify classes of energy-using systems that will be regulated, and to allow the Minister for Energy to make rules that set technical requirements for MEPS, demand flexibility, testing and labelling requirements for energy-using systems.

[9] EECA: Residential smart EV chargers and demand flexibility – How smart charging technology can help manage electricity demand from EVs.

44 Energy-using systems are made up of different energy-using products that work together to produce a distinct service. For example, a pump includes an electric motor, motor controls, drive system and the pump impeller. Other examples include home energy management systems that connect smart appliances. International regimes are starting to set standards for these systems to ensure they are performing effectively. Australia has signalled it will consider setting standards for energy systems in its own regime. However, New Zealand's regime currently is only able to regulate individual products.

45 As the use of energy-using systems in New Zealand increases in future, it may be appropriate to set demand flexibility requirements or energy efficiency performance and labelling requirements for certain energy-using systems. This would increase the efficiency of the energy system and deliver further cost savings for consumers. Officials will work closely with Australia, via the E3 Programme, when setting requirements for energy-using systems in future.

Amending the Act will also address gaps in the current regulatory framework

46 I propose to amend the Act so the regime can include requirements for products, systems, or services:

- imported by an individual or business for their own commercial purposes,
- provided to another business for commercial purposes, for example through a wider services agreement, or
- provided to customers through promotional offers or as a component of a sale, including appliances directly imported to be sold as part of a property.

47 Examples of the types of types of supply this amendment would capture are included Table 1 below.

Table 1

Gaps in the regime	**Examples captured through addressing gaps**
Imported for own commercial purposes	A large corporate bulk purchases a large number of EV chargers for each of its branches.
Provided to another business for commercial purposes	A multi-national beverage company provides fridges across the country to smaller businesses (e.g., corner dairies, supermarkets and service stations).
Promotional offers or as a component of a unit	A property developer imports appliances to be sold as part of the property

	development and used by owners and/or renters.

48 Our regime does not cover products imported for commercial purposes in the same way as Australia. We currently regulate products provided to customers via sale, lease, hire or hire purchase. Products that would otherwise be covered by energy efficiency regulation but which a business imports for its own commercial purposes are out of scope. This leaves a gap that allows products below minimum standards into New Zealand, including through wider services agreements or promotional offers. In contrast, the Australian regime has always set requirements for supply for commercial purposes.

49 Addressing this inconsistency in our regime would enable greater uptake of demand flexibility by allowing demand flexibility standards to apply to new sources of potentially significant demand in future. For example, business fleets of EVs and chargers imported from overseas for a company's own use.

50 There are also market failures linked to this type of supply which could impact future electricity demand. For example, multi-national beverage companies providing branded beverage fridges that are not subject to MEPS to convenience stores, service stations and supermarkets across the country as part of wider services agreements, passing on higher running costs to smaller businesses as a result. Further examples of these market failures are included in Appendix One.

51 There may be a large amount of stock already in New Zealand that could be affected by expanding the regime to cover the types of supply described in paragraph 46. I plan to address this by ensuring that appropriate transitional provisions are in place, which will be reported on to the Cabinet Legislation Committee before the Bill is introduced to the House.

An appropriate exemptions regime is needed to avoid undue compliance costs

52 It is important the regime allows businesses importing for their own commercial purposes to be exempt from MEPS requirements where appropriate, and in circumstances where the number or nature of products may have a negligible impact on energy savings and/or energy systems. The proposed expansion of the regime to cover supply for commercial purposes detailed in paragraph 46 may present increased compliance costs for businesses.

53 I propose to amend the Act to specify that regulations may prescribe class-based exemptions and may specify a minimum number of products below which MEPS, demand flexibility, testing and labelling requirements may not apply ('de minimis'), provided certain criteria have been met before these regulations are made. Class-based exemptions may include the situations or circumstances when an entity is exempt from meeting requirements of a product class or types of regulated parties that are exempt.

54 This will ensure the regime does not impose undue compliance costs on small businesses while still achieving the wider system benefits of expanding the types of supply covered by the regime.

55 I propose that the policy decisions for criteria for granting class-based and *de minimis* exemptions will be developed and approved by the Minister for Energy before drafting instructions on this matter are sent to PCO.

56 I also propose to amend the Act to provide EECA with decision-making powers to grant case-by-case exemptions via application. This will ensure businesses can still access products, services and systems that may not meet minimum standards but are needed for certain activities.

57 EECA will be required to consider specified criteria when granting exemptions on a case-by-case basis. I propose that these criteria will be determined by the Minister for Energy before drafting instructions are sent to PCO and may include factors such as:

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58 In line with the proposals above, I am seeking Cabinet's delegated authority to determine the details of the exemptions regime. The details of the exemptions regime will be reported back to the Cabinet Legislative Committee.

Labelling requirements need updating to include online sales

59 I propose updating the labelling requirements to include information that must be made available for online sales of energy-using products, services, and systems. The information required to be displayed will be set in rules, approved by the Minister for Energy.

60 The labelling requirements in the Energy Efficiency (Energy Using Products) Regulations 2002 (Product Regulations) do not reflect changes in commercial and retail practices over the past 20 years. The regulations currently only require a physical label to be attached to a product when it is physically displayed for sale. They do not apply to regulated products that are advertised and sold online.

61 Introducing labelling requirements for online sales would provide more consumers with information to inform their purchases and ensure a more even playing field between online and physical retailers. It would also support

greater Trans-Tasman alignment, as the Australian regime is planning to introduce similar requirements.

62 I have been advised by the Ministry of Justice that this proposal may be considered to limit the freedom of expression affirmed under Section 14 of the New Zealand Bill of Rights Act. However, any limitation is outweighed by the benefits of this proposal, which include ensuring that New Zealand businesses and consumers are better able to make informed decisions when purchasing energy-using products, which in turn can help reduce their costs as energy consumers.

Cost-of-living Implications

63 The proposals in this paper will deliver cost savings for New Zealand households and businesses from the more efficient use of energy, as well as the longer-term benefits that a smart electricity system will deliver. These savings will exceed any short-term costs of purchasing more energy efficient products. In general, energy efficiency will play a key part in mitigating affordability challenges during the transition to Net Zero 2050.

Financial Implications

64 While there are no direct fiscal implications, there will be financial implications associated with these proposals with some increase in resources Confidential advice to GovernmentConfidential advice to Government Confidential advice to Government required to meet the costs of new legal and drafting expertise to prescribe technical energy efficiency MEPS, testing and labelling requirements in rules. The costs associated with these proposals will be met from within EECA's existing level of resourcing. Confidential advice to Government Confidential advice to Government

Legislative Implications

65 Enhancing the energy efficiency regulatory system will require amendments to the Act and secondary legislation. Amendments to the Act will be via the Energy Efficiency and Conservation Amendment Bill, which has a Category 6 (instructions to be provided to PCO before the end of 2024) priority in the 2024 Legislation Programme.

66 The Act binds the Crown and the proposed amendments to the Act will not change that.

Impact Analysis

Regulatory Impact Statement

67 An internal quality assurance panel convened by MBIE has reviewed the Regulatory Impact Statement (RIS) and considers that the information and analysis it contains meets the quality assurance criteria for Ministers to make informed decisions on the proposals in this paper.

Climate Implications of Policy Assessment

68 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal, as the emissions impact does not meet the CIPA threshold. The energy savings is 50 GWh annually, which corresponds to 3,710 tonnes CO_2e. This figure was calculated using the latest grid average electricity emission factor. This proposal will support a more effective and fit-for-purpose energy efficiency regulatory regime, that better supports progress towards emission reductions. The emission impact of future requirements enabled by this proposal will be assessed and disclosed to the CIPA team as appropriate.

Population implications

69 The proposals are unlikely to have any material population impacts.

Human Rights

70 The proposals are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993. The Ministry of Justice has been consulted on the proposals. Formal Bill of Rights vetting will be undertaken as part of the process of developing the Bill.

Consultation

Public consultation

71 In June 2021, *Energy efficient products and services: A regulatory reform discussion document* was released for public consultation. This included proposals that were developed in response to the issues raised by the 2019 Review.

72 EECA notified over 700 listed contacts from industry, academia, government, and professionals working in energy. Twenty-seven submissions were received, covering all key industries, and representing a range of perspectives.

Legislation Design and Advisory Committee

73 The Legislation Design and Advisory Committee (LDAC) were consulted on the proposals contained in the previous Cabinet paper [ENV-23-SUB-0020] in May 2023. Officials will take into consideration LDAC's advice during the drafting process.

Government consultation

74 The following agencies were consulted in the development of this paper: The Treasury, Ministry for the Environment, Ministry of Foreign Affairs and Trade (MFAT), Ministry of Justice, Ministry of Transport, EECA and MBIE. The Electricity Authority was also consulted on certain proposals relevant to their work programme.

75 The Department of Prime Minister and Cabinet and the Parliamentary Counsel Office have been informed.

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Communications

77 Given the relationship between amendments to the Act and the Supercharging EVs work programme, policy decisions will be announced alongside the Supercharging EVs work programme report back to Cabinet in October 2024.

Proactive Release

78 I propose to proactively release this Cabinet paper alongside any announcement of the policy decisions.

Recommendations

The Minister for Energy recommends that the Committee:

1 **note** that in June 2023 Cabinet agreed to proposed amendments to the Energy Efficiency and Conservation Act 2000 (the Act) set out in ENV-23-MIN-0020

2 **note** that the Act is no longer fit for purpose, and that the energy efficiency regulatory regime's ability to deliver significant energy and cost savings for New Zealand businesses and consumers is constrained

3 **note** that the proposed amendments to the Act will support progress towards the Government's 2050 Net Zero target, as well as the Electrify NZ and Supercharging EV Infrastructure work programmes, by setting standards for demand flexibility and increasing the overall effectiveness of the energy efficiency regime

4 **note** that public consultation on proposals for inclusion in the Bill was undertaken from June to July 2021 and the proposals below take account of feedback received

5 **agree** to recommend that Cabinet rescind the decisions referred to in CAB-23-MIN-0263; and instead:

Streamlining the regime's processes

6 **agree** to amend the Act to authorise the Minister for Energy to make rules that prescribe technical requirements for MEPS, demand flexibility, testing and labelling requirements, for energy-using products, services and systems

7 **note** that the rules will be drafted by EECA

8 **note** that regulations (which need to be agreed by Cabinet) will continue to specify which types of energy-using products, systems and services will be subject to MEPS, demand flexibility, testing and labelling requirements

9 **agree** that when making rules that prescribe technical requirements referenced in recommendation 6, the Minister for Energy must have regard to international energy efficiency and demand flexibility standards, including New Zealand standards and joint New Zealand-Australia standards

10 **note** that the Legislation Act 2019 and the Standards and Accreditation Act 2015 provide general provisions for secondary legislation to incorporate material by reference, and I expect EECA and officials to consider incorporating international material by reference before introducing any new requirements in future

11 **agree** to clarify that requirements for energy-using products, services and systems may, in line with the sustainability principles specified in the Act, include testing requirements that are related to the overall performance of the energy-using product, system or service

12 **agree** to amend the Act to require that:

12.1 for any new regulations or changes to existing regulations, a notice must be published in the Gazette, or in one or more newspapers circulating in the area, or on the website of the agency administering the Act (the Ministry of Business, Innovation and Employment); and

12.2 for any new rules or changes to existing rules, a notice must be published in the Gazette and on EECA's website

Future-proofing the regime

13 **agree** to expand the regime to allow for:

13.1 rules to prescribe demand flexibility capability requirements for energy-using products, services and systems

13.2 technical requirements for MEPS, demand flexibility, testing and labelling requirements for energy using systems

14 **invite** the Minister for Energy to report back to Cabinet on an approach to regulating EV smart chargers in due course

15 **agree** to expand the types of supply that may be covered by requirements to include energy-using products, systems or services:

15.1 imported by an individual or business for their own commercial purposes

15.2 provided to another business for commercial purposes, for example through a wider services agreement, or

15.3 provided to customers through promotional offers or as a component of a unit, including appliances directly imported to be sold as part of a property

16 **agree** to amend the Act to specify that regulations may include a class-based exemptions regime and may specify a minimum number of products below which MEPS, demand flexibility, testing and labelling requirements may not apply ('de minimis'), provided criteria for these exemptions have been met

17 **note** that the Minister for Energy will develop and approve the criteria for granting class-based and de minimis exemptions before drafting instructions are sent to the Parliamentary Counsel Office

18 **agree** to amend the Act to provide EECA with the powers to grant exemptions from aspects of energy performance, testing and labelling requirements on a case-by-case basis via application

19 **agree** that, when assessing any application for exemption, EECA will be required to consider a defined set of criteria

20 **note** that the Minister for Energy will determine the criteria EECA must consider when granting exemptions on a case-by-case basis, which may include the factors set out at paragraph 57, before drafting instructions are sent to the Parliamentary Counsel Office

21 **agree** to update the labelling requirements to include information that must be made available for online sales of energy-using products, services and systems

22 **note** that the information required to be displayed online will be set in rules approved by the Minister for Energy

Legislative implications

23 **note** that changes to primary and secondary legislation are required to give effect to these proposals

24 **note** that proposed changes to the Energy Efficiency and Conservation Act 2000 is on the 2024 Legislation Programme, with a category 6 (instructions to be provided to PCO before the end of 2024)

25 **note** that officials will work with PCO to identify provisions currently placed in regulations that would be better placed in the primary legislation, and whether regulations should subdelegate certain requirements to rules

26 **invite** the Minister for Energy to issue drafting instructions to PCO

27 **authorise** the Minister for Energy to make the following policy decisions and issue further drafting instructions to PCO on:

27.1 technical details arising from the proposed changes

27.2 transitional matters

27.3 the details of the exemptions regime (including the criteria to be used for class-based and de minimis exemptions, and the criteria EECA must consider when granting exemptions on a case-by-case basis)

27.4 any issues which arise during the drafting process that are consistent with the proposals in these recommendations.

Authorised for lodgement

Hon Simeon Brown

Minister for Energy

Appendix One

Examples of market failures which could be addressed by expanding the scope of the regime to cover supply for commercial purposes

As noted in the body of the paper, expanding the scope of the regulatory regime to include supply for commercial purposes can potentially address market failures that create an uneven playing field for New Zealand businesses. Examples of these market failures and their effects are detailed below. The wider public impact of these market failures include energy affordability challenges, less efficient use of grid infrastructure and reduced system flexibility.

Example	Effect
A retailer (i.e., supermarket) imports EV chargers for installation in a retail chain for customer use.	Owners of the EV chargers (retail chain) do not pay for the operational costs of their use. This is paid for by retail customers and the wider public.
A large corporate bulk purchases a large number of EV chargers for each of their branches	A business must cover both the OPEX and CAPEX of this purchase, the costs savings from more efficient or demand flexibility-capable equipment was not factored into their decision-making due to focus on upfront cost, lack of familiarity with time-of-use pricing plans and operational and capital budgets being split across the business.
A multi-national beverage company providing fridges across the country to smaller, New Zealand based businesses (e.g., corner dairies, supermarkets and service stations) as part of a wider services agreement or a promotional offer	The importing business is providing the beverage fridge free-of-charge but is not paying for the operational cost of the inefficient equipment. The other business bears the costs of energy equipment.
A property developer importing appliances to be sold as part of the property development	Home occupiers don’t have choice or control over their energy-using appliance and end up bearing higher energy costs – not the property developer. The costs of non-compliant products are born by the occupiers/tenants, resulting in adverse impacts on end-users.

Regulatory Impact Statement: Delivering a More Effective Energy Efficiency Regulatory Regime

Coversheet

Purpose of Document	
Decision sought:	*Analysis produced for the purposes of informing final Cabinet decisions on proposals to amend the Energy Efficiency and Conservation Act 2000*
Advising agencies:	*Ministry of Business Innovation and Employment (MBIE)*
Proposing Ministers:	*Minister for Energy*
Date finalised:	*13 August 2024*

Problem Definition

The Energy Efficiency and Conservation Act 2000 (the Act) provides the statutory basis for energy efficiency regulation in New Zealand.

New Zealand's energy system is undergoing a period of significant change in the transition to Net Zero by 2050. The electrification of the economy, particularly the light-vehicle fleet through the increasing uptake of electric vehicles (EVs), will place significant additional pressure on our electricity system. Energy efficiency enables electrification by helping maximise the use of existing renewable energy and reducing the overall need for generation and network upgrades across the electricity system.

The Act is no longer fit for purpose and does not adequately support the Government's priorities for the broader energy system, including electrification. This is because:

- the regime's current scope does not enable it to effectively respond to technological changes and market developments, including demand flexibility[1] and the emerging use of energy-using systems
- there are gaps in the current regime that limit energy efficiency gains and represent divergences with the Australian energy efficiency regulatory regime
- the processes embedded within the legislation need to be streamlined to keep pace with other developed countries, including Australia, and technical changes are required to clarify existing requirements and modernise the Act.

Without amendments, the regime may stop providing the energy and cost savings for consumers it has delivered for the past 20 years and will not be able to support other government objectives for the energy system and emissions reduction.

[1] Demand flexibility means the modification of consumption patterns and supply from distributed energy resources (such as smart devices or batteries located near homes and businesses) in reaction to an external signal (such as a change in price) to provide a service within the energy system.

Amendments to the Act and secondary legislation aim to create a more effective energy efficiency regulatory regime. Amending the Act will aim to achieve the following:

- Ensuring the regime has the scope and flexibility to respond to technological developments.
- Enabling a smarter energy system and unlocking electrification as a result.
- Keeping non-compliant products out of the New Zealand market by closing loopholes that currently exist.
- Removing unnecessary 'red tape' so we keep pace with other developed countries (especially Australia).
- A fit-for-purpose regime that meets modern legislative design principles.

Executive Summary

This Regulatory Impact Statement (RIS) considers a range of proposed changes to the energy efficiency regulatory regime. The regime consists of one piece of primary legislation, the Energy Efficiency and Conservation Act 2000, that enables the making of secondary legislation, the Energy Efficiency (Energy Using Products) Regulations 2002 and the Energy Efficiency (Vehicle Energy Economy Labelling) Regulations 2007. The changes will enable the regime to adapt to evolving technical and market developments and resolve long-standing technical and legislative issues that adversely affect the ability of the Energy Efficiency and Conservation Authority (EECA) to perform its functions.

The energy efficiency regulatory system is out of date

Improving the energy efficiency of homes and businesses and being open to changing market conditions requires an effective regulatory framework. The regime has not been comprehensively amended since its introduction in 2002. The absence of reviews and improvements during this time has led to gaps in the regime's scope and divergences between New Zealand and Australia's regimes.

Key opportunities for improvement

The first comprehensive review of the legal and regulatory framework in 2019 found that the system has been unable to keep pace with market and technological changes and international best practice. It identified opportunities to expand the regime's scope to include demand flexibility and streamline its processes to enable the adoption of new technical requirements in a timelier manner. This will improve the regime's alignment with the Australian system.

MBIE has identified several improvements that could be made to the regulatory regime. These improvements require changes to the Act and secondary legislation. This RIS considers options to address these different problems or opportunities. These are separated into two areas, based on what objective the proposals seek to achieve.

The objectives are:

- **Future-proofing the regime**: ensuring it has the scope and flexibility to respond to technological developments and close existing loopholes, enabling a smarter electricity system and unlocking electrification as a result.

- **Streamlining processes**: removing unnecessary 'red tape' so we keep pace with other developed countries (especially Australia) and have a fit-for-purpose regime that meets modern legislative design principles.

MBIE's recommended options to achieve these objectives are outlined in the table below. Each option was considered against the status quo and determined to be an improvement. As outlined in the table below, some proposals will have a direct impact, while others are enabling provisions and will require secondary legislation to be developed first to have an impact. Proposals with direct impacts have been assessed in the marginal costs and benefits box. Further RISs will be developed for future proposals relating to secondary legislation.

Objective	Proposed amendment	Impact
Future-proofing the regime	Expanding the scope of the regime to include demand flexibility-capability requirements when setting minimum energy performance standards (MEPS), testing and labelling requirements. This introduces a regulatory lever which can be used if the regulation of EV chargers with demand flexibility capability is warranted.	Proposal is enabling – future secondary legislation required to effect change
	Expanding the scope of the regime to enable future regulation of 'energy-using systems'.	Proposal is enabling – future secondary legislation required to effect change
	Expanding the types of supply covered by the regime to include businesses that import products for their own commercial purposes, provide to other businesses for commercial purposes (eg, through a wider services agreement), or provide to customers through promotional offer or as a component of a unit (eg, an appliance directly imported to be sold as part of a property).	Proposal is enabling – future secondary legislation required to effect change
	Amending the Act to specify that Regulations may include a class-based exemptions regime and may specify a minimum number of products below which aspects of energy performance, testing and labelling requirements may not apply. The exemptions regime may include both class-based and case-by-case exemptions, the latter of which would be processed on an application basis.	Proposal is enabling – future secondary legislation required to effect change
	Extending the labelling requirements to cover online sales from New Zealand websites. This will close an existing loophole, align the labelling requirements for products with those of vehicles.	Direct
	Streamline the process for setting highly technical energy performance, testing and labelling requirements, by	Direct

Streamlining processes	allowing these requirements to be set in rules, drafted by EECA.	
	Amending the Act's definition of 'publicly notify' so it aligns with modern public consultation requirements.	Direct
	Clarifying energy performance testing requirements so they reflect the real-life standard use of a product.	Direct

The expected costs resulting from the proposals are:

- no direct fiscal impacts to the Crown, however, implementing these proposals will require resources of approximately Confidential advice to Government Confidential advice to Government to meet the costs of new legal and drafting expertise to develop the rules. The costs associated with these proposals will be met from within EECA's existing level of resourcing.
- increased costs for manufacturers and importers subject to new requirements under the regime. These costs may be partially passed on to consumers. The increase in costs will vary depending on the product involved, which means it is not possible to accurately quantify the exact costs associated with these proposals. Regulatory impact analysis and public consultation will take place before any new requirements are introduced for energy-using products, systems or services.

The expected benefits resulting from the proposals are:

- consumers and businesses will enjoy energy and cost savings from more efficient products, services and vehicles
- the public will benefit from reduced costs of lowered electricity demand, especially through greater use of demand flexibility to avoid / minimise peaks, which will lessen the economic costs of the electrification across the economy
- product importers, manufacturers and retailers will benefit from a more even playing field and greater clarity about their roles and responsibilities.

New Zealand is currently behind Australia on 10 individual product standards due to the time it takes to currently introduce new requirements into the New Zealand regime. For example, last year, two million units of products regulated for energy efficiency in Australia have been sold in New Zealand without the equivalent updated energy efficiency standard being in force in New Zealand.

Under the current system, New Zealand's regime cannot set new technical requirements at the same speed as Australia's. These delays cost us: the estimated lost energy savings because of delays in adopting regulatory requirements for household fridge-freezers Australia adopted in 2021 is around 300 GWh – or the annual electricity usage of 37,000 households.

Public consultation was undertaken in 2021. Submitters consistently noted the success of the regime and observed that EECA had a strong reputation with consumers as a trusted source of information. Most submitters agreed that system-wide change is needed and supported most of the proposals.

Limitations and Constraints on Analysis

MBIE has a high level of confidence in the evidence base. Although some of the problems are difficult to quantify in terms of scale, insights from stakeholders and submitters confirm that the problems have been correctly identified. In most cases, qualitative evidence is supported by an independent review conducted by Allen + Clarke in 2019, as well as administrative or statistical data provided by EECA.

The main limitation of the cost benefit analysis is the inability to accurately quantify the monetary impacts of the proposals. Another key limitation is there often being only two natural options for some of the proposals. For the proposals which are enabling provisions, detailed cost-benefit analysis will be completed prior to the introduction of any new secondary legislation, such as future regulation of EV chargers. Additionally, benefits of the proposals assume that EECA can provide effective enforcement.

Another limitation is the lack of quantitative data that highlights the impacts and problems of the proposals. EECA does not have access to sales data of products sold under the Australian regime which limits EECA's ability to obtain information that is yet to be subject to New Zealand's regulatory regime. Although quantitative data is not available for a number of the proposals, these proposals none the less would better align us with the Australian regime, minimising regulatory divergence.

Responsible Manager(s) (completed by relevant manager)

Scott Russell

Manager Energy Use Policy

Building Resources and Markets

Ministry of Business Innovation and Employment (MBIE)

13 / 08 / 2024

Quality Assurance (completed by QA panel)

Reviewing Agency:	Ministry of Business Innovation and Employment (MBIE)
Panel Assessment & Comment:	An internal quality assurance panel convened by MBIE has reviewed the Regulatory Impact Statement (RIS) and considers that the information and analysis it contains **meets** the quality assurance criteria for Ministers to make informed decisions on the proposals in this paper.

Contents

Section 1: Diagnosing the policy problem

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

The Energy Efficiency and Conservation Act 2000

Background

1. The Energy Efficiency and Conservation Act 2000 (the Act) provides the legal basis for promoting energy efficiency, energy conservation, and the use of renewable energy in New Zealand.

2. The Act enables the making of the Energy Efficiency (Energy Using Products) Regulations 2002 (the Product Regulations) and the Energy Efficiency (Vehicle Energy Economy Labelling) Regulations 2007 (the Vehicle Regulations).

Product Regulations	• Set minimum energy performance standards (MEPS). • Set mandatory energy performance labelling requirements. • Apply to 21 product classes currently regulated, including household appliances like air conditioners, dishwashers and refrigerators.
Vehicle Regulations	• Set mandatory labelling requirements for certain motor vehicles offered for sale. • Labelling requirements include energy efficiency and carbon dioxide emissions information.

3. Since 2002, 98 million regulated products have been sold under the regime, saving an estimated 94.5 petajoules of energy, equating to 3.5 million tonnes (Mt) of carbon dioxide equivalent (CO_2e) and $2.3 billion of national benefit.[2]

4. EECA monitors and enforces compliance with these requirements and develops and consults on proposed new requirements. The regulated parties are persons or businesses who import, manufacture, offer (including lease or hire) or advertise for sale the regulated products within New Zealand.

Trans-Tasman alignment

5. The Product Regulations underpin New Zealand's participation in the Trans-Tasman Equipment Energy Efficiency (E3) Programme with Australia. Australia's regulatory regime is established by the Greenhouse and Energy Minimum Standards Act 2012 (the GEMS Act).

6. Under the Trans-Tasman Mutual Recognition Arrangement (TTMRA), goods that can be lawfully sold in either New Zealand or Australia can be lawfully sold in the other jurisdiction. The E3 Programme aligns MEPS and labelling requirements for energy using products in both jurisdictions, and ensures policy is developed in line with the TTMRA.

7. Although New Zealand and Australia work closely to align the regulation of energy using products, operational constraints mean EECA cannot update technical requirements for regulated products at the same pace as Australia. This leads to

[2] Savings achieved: https://www.eeca.govt.nz/insights/eeca-insights/product-sales-decrease-but-energy-efficiency-improves/.

divergence between the Australia and New Zealand regulatory regimes, which over time results in lost energy efficiency gains for New Zealand.

8. New Zealand is currently behind Australia on 10 individual product standards due to the time it takes to currently introduce new requirements into the New Zealand regime. For example, last year, two million units of products regulated for energy efficiency in Australia have been sold in New Zealand without the equivalent updated EE standard being in force in NZ. Almost all of that number is made up of external power supplies (power banks for electronic appliances); plus, around 600,000 units of whiteware (dishwashers, washing machines, tumble dryers) and approaching 400,000 light fittings with small volumes of the remainder of the product classes.

9. Under the current system, New Zealand's regime cannot set new technical requirements at the same speed as Australia's. These delays cost us: the estimated lost energy savings because of delays in adopting regulatory requirements for household fridge-freezers Australia adopted in 2021 is around 300 GWh – or the annual electricity usage of 37,000 households.

A review of the energy efficiency regulatory system was initiated in 2019

10. The regime has been broadly effective in achieving energy, cost, and emissions savings for New Zealand consumers since it was introduced in 2002. However, the market and international approaches to energy efficiency regulation have changed significantly since 2002. In 2019, EECA initiated a review of the Act (the Review) and the Product Regulations which had not been reviewed as a whole since they were made in 2000 and 2002 respectively.[3]

11. The Review was completed by policy consultancy firm Allen + Clarke, with input from EECA's technical experts and other relevant parties. Its objective was to ensure the Product Regulations and the regulation-making powers[4] were clear, accessible, fit-for-purpose, and could continue supporting New Zealand's future energy efficiency and conservation goals. It considered changes that would address issues that are hindering successful operation of the regime, regulatory burdens on industry and impacts on consumers.

Public consultation on the energy efficiency regulatory regime

12. MBIE undertook public consultation on a range of proposals to address issues raised in the Review. In June 2021, MBIE released and undertook public consultation on 'Energy efficiency products and services – A regulatory reform discussion document'. The document outlined 21 proposals for changes to the regime, detailed at Appendix A.

13. Feedback received during public consultation has informed the suite of proposals MBIE is recommending to progress within this RIS. Submitters noted the regime's success and observed that EECA had a strong reputation with consumers as a trusted source of information. However, the majority of submitters agreed that system-wide change is needed and supported most of the proposals. There was some disagreement around proposals to provide exemptions and increase maximum penalty levels (the latter is not addressed in this RIS).

Government commitments and related work programmes

14. Energy efficiency and demand flexibility will play a role in achieving the Government's Net Zero 2050 target and support New Zealand's global pledge at the 28th United

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[3] Eight substantive amendments have been made to the Product Regulations since 2002; these have been limited to adding new product classes, and changes to MEPS and labelling requirements.

[4] Section 36 of the Energy Efficiency and Conservation Act 2000 provides for the Minister to recommend the making of regulations relating to prescribing minimum energy performance standards for energy using products and services, and prescribing the requirements in relation to labelling of products.

Nations Climate Change Conference (COP28) to collectively double energy efficiency improvements by 2030.

15. The proposals in this RIS will support the Government's energy priorities around electricity affordability, security of supply and emissions reductions including the Supercharging EV Infrastructure and Electrify NZ work programmes. The proposals also align with the second Emissions Reduction Plan (ERP2) consultation document, which notes the Government's work to enable energy efficiency and a smarter electricity system.

What is the policy problem or opportunity?

16. The policy rationale for regulating energy efficiency is well understood and is not being reconsidered as part of these proposals. The proposals in this RIS address areas where the regulatory system can be improved to better deliver those policy objectives.

17. The Act is no longer fit for purpose and does not adequately support the Government's priorities for the energy system. There are a number of inter-related problems and opportunities with the status quo:

- The regime's current scope does not enable it to effectively respond to technological changes and market developments, including demand flexibility and the use of energy-using systems.
- There are gaps in the regime's current scope that limit energy efficiency gains and represent divergences with the equivalent Australian regime.
- The regime's processes for setting technical requirements need to be streamlined so we can keep pace with other developed countries, including Australia, and technical changes are needed to ensure they meet modern legislative design principles.

18. These problems and opportunities are discussed in detail below.

The regime's current scope does not enable it to effectively respond to technological changes and market developments

There is an opportunity to improve energy efficiency regulation by enabling standards for demand flexibility, and allowing the future regulation of energy-using systems

19. Product technology has developed significantly since the regime was first introduced, but the Act and associated Product Regulations have not progressed with these advancements. The Act enables the regulation of the energy performance (i.e. maximum energy use) of a particular product class, but does not enable the regulation of other important energy-related aspects of products that have seen technological advancement since the Act was introduced– namely, the use of "smart", internet-connected and demand flexibility-capable products.

20. The shift towards an increasing penetration of renewable energy generation requires greater reliance on intermittent energy sources like wind and solar. MBIE's recent Electricity Demand and Generation Scenarios report[5] indicated a 56.6% increase in electricity consumption from 2023 to 2050, with electricity meeting 47.3% of energy demand. New sources of electricity demand, like EVs, could also increase the 'peakiness' of electricity demand.

21. Products with demand flexibility capability (ie, the ability to control when devices are charged or in use) will play an important role in ensuring electricity networks can manage increasing demand. However, the Act does not provide for the regulation of

[5] https://www.mbie.govt.nz/assets/electricity-demand-and-generation-scenarios-report-2024.pdf

demand flexibility. Without regulation, different parties taking different approaches to demand flexibility could lead to a coordination problem, which could limit the effectiveness of demand flexibility in general.

22. The Act also does not currently provide for the regulation of the efficiency of products as a wider 'energy-using system'. Overseas jurisdictions are beginning to regulate on a systems-based approach. Since the Act's development, the emergence of smart appliances, greater internet connectivity, and opportunities for two-way communication in the electricity system that support demand flexibility, means it is becoming increasingly important to take a systems approach.

There are gaps in the regime's current scope that limit energy efficiency gains and represent divergences with the Australian energy efficiency regulatory regime

There are gaps in the current regulatory framework

23. The regime currently regulates products provided to customers via sale, lease, hire or hire purchase. Products that would otherwise be covered by regulation, but which a business imports for its own commercial purposes, are out of scope.

24. This includes products, services and systems that are:

- imported by an individual or business for their own commercial purposes
- provided to another business for commercial purposes, for example through a wider services agreement
- provided to customers through promotional offers or as a component of a unit, including appliances directly imported to be sold as part of a property.

25. This gap in the regime's scope allows for market failures – including split incentives and principal agent problems – to persist. Importers or businesses benefit from the purchase of a lower-cost, non-compliant appliance and pass on the higher running costs of that appliance to a third party.

26. This gap represents a divergence between the New Zealand and Australian regimes, as Australia has always imposed requirements on using products for commercial purposes.

There is no ability to grant exemptions when appropriate

27. The Product Regulations currently allow some exemptions[6] to be made where:

- Products are destined for export or transit
- The items are second-hand
- There are less than 50 units imported into or manufactured in New Zealand.

28. This does not cover the range of situations or products that may warrant an exemption. For example, exemptions cannot be granted for regulated products that do not meet MEPS, but which are required by a business for specific activities. In order to create a new and more flexible exemptions regime, appropriate empowering provisions in the Act are needed.

29. The current exemptions process differs to the Australian regime, which includes an exemptions process for suppliers or commercial users of a model of regulated product.

30. In addition, the existing minimum threshold provisions in Regulation 12 of the Product Regulations (referenced in the third bullet point above) exempt regulated parties from providing testing reports and labelling requirements, but not MEPS. Therefore, manufacturers and importers are still required to submit a prescribed form to EECA

[6] Energy Efficiency (Energy Using Products) Regulations 2002, Regulation 11 and 12

with information on the energy performance characteristics of the item. This inconsistency risks creating confusion for regulated parties about their obligations under the regime and negates the benefit of an exemption because regulated parties are still required to comply with an administrative requirement.

Labelling requirements need updating to include online sales

31. The labelling requirements in the Product Regulations have not kept pace with changing commercial and retail practices over the past 20 years. The Regulations only require a physical label to be attached to a product when it is physically displayed for sale. They do not apply to regulated products that are advertised and sold online, which have become a much larger proportion of business expenditure over the past decade.

32. This creates inconsistencies and confusion for retailers and consumers and undermines the intent of labelling, which is to improve consumer information and decision-making. Australia is intending to introduce labelling requirements for online sales under its regime, to address this inconsistency.

The Act and Regulations' processes need to be streamlined, and technical changes are needed to clarify existing requirements and modernise the Act

The process for setting highly technical requirements could be more efficient

33. As products develop over time, the technical requirements for each product class need to be amended so the regime reflects changes in technology and aligns with international energy efficiency regimes. Alignment with Australia is particularly important because of the TTMRA and E3 Programme.

34. However, New Zealand is not keeping pace with the Australian regime because of the time it takes to amend technical requirements in regulations. The regulation-making process requires the Parliamentary Counsel Office (PCO) to draft regulations that include lengthy and highly technical detail.

35. The current process of amending technical requirements in regulations can take several years because it is very difficult for non-technical experts to translate highly technical detail into regulations. It is common for the amendments to be out of date or superseded by the time they are implemented.

Technical changes are required to clarify existing requirements and modernise the Act

36. Some of the Act's requirements need technical changes and/or clarifications to support the effectiveness of the regime and ensure the Act aligns with modern legislative design principles. These include:

    - an out-of-date definition of 'publicly notify'
    - energy performance testing requirements that do not sufficiently align with the Act's sustainability principles.

What objectives are sought in relation to the policy problem?

37. The key objectives sought in addressing the problems identified above are:

    - **Future proofing the regime** – ensuring it has the scope and flexibility to respond to technological developments and closing existing loopholes, enabling a smarter energy system and unlocking electrification as a result
    - **Streamlining processes** – removing unnecessary 'red tape' so we keep pace with other developed countries (especially Australia) and have a fit-for-purpose regime that meets modern legislative design principles.

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

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

38. The following criteria have been used to assess the options. The criteria are based on the four dimensions that MBIE uses to assess the efficacy of its regulatory systems, and how likely they are to meet the overall objectives:

    - **Effectiveness** – to what extent does the system deliver greater energy savings? This may include increased regulatory scope to factor in technological developments and international best practice, capturing more of the market, or making it easier to identify and implement new regulatory opportunities to deliver energy savings.
    - **Efficiency** – to what extent does the proposal minimise undue costs and burdens to businesses and consumers, and enable energy savings? This may include the degree to which the outcomes justify the costs to businesses, consumers and government, as well as improving alignment with the Australian regime.
    - **Resilience** – how well does the regulatory system cope with market variation, change, and pressures? Is the proposal keeping pace with product innovation and international market trends?
    - **Fairness and accountability** – how well does the system respect rights and deliver good process? This may include how the proposal affects the integrity of the regulatory system, makes it easier to comply, creates a fair playing field for regulated parties, as well as fair and impartial enforcement.

What scope will options be considered within?

39. The range of options considered is limited to those that address the problems identified in the Review in 2019. In some cases, there is a binary choice between the status quo and the proposed option, as there are no other obvious viable options.
40. A number of the options that were consulted on have not been included in this RIS, and are outlined in Appendix A.
41. In 2021, Cabinet agreed to publicly consult on a number of proposals that respond to the issues highlighted by the Review, with the intention for the Minister for Energy to report back to Cabinet with final proposals for consideration.
42. In addition, we do not consider that voluntary standards alone (for example Publicly Available Specifications) are sufficient to ensuring the uptake in demand flexibility-capable products in New Zealand. Other jurisdictions, such as the UK and Australia, are exploring the standardisation of communication protocols alongside other measures, such as voluntary standards.
43. Options outside of the legislative framework for energy efficiency have not been considered, with the exception of the proposal to include requirements in secondary legislation related to demand flexibility-capability. MBIE considered whether these requirements could be introduced under the Electricity Authority or electricity safety regulatory systems, but changes to the scope of both regimes would be needed to

cover products and mass manufacturing in the same way the energy efficiency regime does.

What options are being considered?

44. MBIE has identified and analysed a range of options to address each specific problem described in this RIS. We describe specific issues, options for addressing them, and an analysis of the options below.

45. The preferred options are designed to work together as a package, to create a more robust regulatory framework. The package of options is designed to meet the following two objectives:

- future-proofing the regime
- streamlining processes.

Future-proofing the regime

46. The options considered in this section aim to achieve the following objective:

- ***Future-proofing the regime*** by ensuring it has the scope and flexibility to respond to technological developments and closing existing loopholes, enabling a smarter energy system and unlocking electrification as a result.

47. We have considered the following options that would require changes to the Act and secondary legislation:

- Enabling the future regulation of demand flexibility.
- Enabling the future regulation of energy-using systems.
- Addressing gaps in the current regulatory framework around supply for commercial purposes.
- Providing a regime for exemptions.
- Updating labelling requirements to include online sales.

Enabling the future regulation of demand flexibility

Option A1 – *Status Quo*

48. The Act provides for Regulations to be made for prescribing MEPS for energy using products and services but does not allow for regulation of demand flexibility.

49. Demand flexibility allows a third-party provider to remotely control the energy use of a household appliance, like an EV charger, during times of peak demand. Demand flexibility is a relatively new technological development and uptake is increasing in the New Zealand market. Without regulatory intervention, demand flexibility capability could be decided by manufacturers, installers and consumers. This could cause challenges in the market - for example, proprietary control systems or communication systems that might prevent consumers from switching electricity retailers or limit their options when they replace or upgrade an appliance.

50. In response to the increasing uptake of EVs in New Zealand, EECA and Standards New Zealand have produced publicly available specifications (PAS) for residential and commercial EV chargers with demand flexibility capability, but adhering to the PAS is voluntary. The Electricity Authority is also leading a programme of work to adjust market settings for demand flexibility. Neither of these existing programmes will set adequate requirements for communications and interoperability.

Option A2 – Allow requirements to be made related to demand flexibility capabilities

51. This option would amend the Act to allow demand flexibility-capability requirements when setting MEPS, testing and labelling requirements. It would allow EECA to regulate beyond energy efficiency to include other factors necessary to enable demand flexibility; for example, enabling sufficient interoperability.

52. This option does not introduce these requirements in secondary legislation for any energy-using products at this stage. Rather, it introduces a regulatory lever which can be used if regulatory intervention is warranted, such as in the regulation of EV chargers with demand flexibility capability. Consultation and regulatory impact analysis would be required before demand flexibility requirements are introduced into secondary legislation.

53. A preliminary assessment by EECA in 2019 showed a possible peak demand reduction of 444 megawatts by 2036 in New Zealand, from the combination of demand flexibility-enabled air-conditioners, hot water heaters and EV chargers. Any future decision to require demand flexibility capability would need to factor in the impact on

manufacturers, importers, and consumers, in restricting any non-demand response capable products from the New Zealand market.[7]

54. By enabling the appropriate secondary legislation, this option would improve the effectiveness of the regulatory system by helping to avoid peak demand. It will also increase resilience by keeping pace with technological innovation.

Stakeholder views

55. The majority of submitters (79%) supported this proposal and thought that including demand flexibility requirements for some products (such as EV chargers) would help save consumers money and could help reduce peak demand.

56. Two submitters who supported the proposal expressed concern that poorly designed demand flexibility requirements could lead to a lack of trust in such systems.

How do the options compare to the status quo?

Key: ++ much better than doing nothing/the status quo + better than doing nothing/the status quo /the status quo 0 about the same as doing nothing/the status quo - worse than doing nothing/the status quo - - much worse than doing nothing/the status quo

	Option A1 – *Status Quo*	Option A2 – *Allow requirements to be made related to demand flexibility capabilities*
Effectiveness Impact on energy savings	0 .	++ *Provides for greater energy savings, by capturing more of the market, and ability for products to respond (by delaying or minimising energy use) to external signals.* *Specifying performance requirements & common standards for demand flexibility capability will provide the greatest benefit in reducing the need for additional generating capacity during peak demand.*
Efficiency Costs to businesses, consumers and/or government	0	++ *Increased cost when purchasing demand flexibility capable products, however, will deliver greater savings through improved performance and reduced electricity bills.* *Minimal cost to government in comparison to potential benefits to the wider electricity system.* *Will enable greater efficiency and utilisation of grid infrastructure.*
Resilience Resilient to market changes, variation	0	++ *Reflects emerging technologies, demand flexible capable appliances/devices such as smart EV chargers.*

[7] It is expected that products with demand response capabilities would only be slightly more expensive to the consumer. An example from Australia shows that making heat pumps/air conditioners compliant would increase average retail prices by $5-$15 AUD per unit. Given the installed costs of a unit is $2500 AUD, this would be less than 1 per cent of the total cost.

Fairness and accountability Fair, consistent regulatory design	0	+ *Regulation of energy-related performance aspects of consumer products remain within one regulatory regime.*
Overall assessment	0	+++++++

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

57. MBIE recommends progressing with Option A2, amending the Act to allow for regulations for demand flexibility capability for energy using products, services, and systems. Across all criteria, this option provides an improvement on the status quo. It would increase the resilience of the regulatory system, by allowing demand flexibility to be considered in setting standards for energy using products, services, and systems. It will also support the regulatory regime to generate greater energy savings through the improved performance of products and reduced electricity bills for consumers with access to devices with demand flexibility. Option A2 is an enabling provision in the Act and therefore changes to secondary legislation for demand flexibility capability will require a separate RIS with more detailed costs and benefits related to the specific options.

Enabling the future regulation of energy-using systems

Option B1 – *Status Quo*

58. To date, the Regulations have focussed on specific products, and this will remain important as technology continues to improve and products become more efficient. However, there is no ability to regulate for energy-using systems under the current regime.

59. There are many examples of energy-using systems. For example:

- electric motors that are part of a system that includes motor controls, motor drive system and the connected fan, pump impeller, *et cetera*
- a home that contains smart appliances connected by a home energy management system.

Option B2 – Allow requirements for energy-using systems

60. This option would amend the Act to allow for MEPS, demand flexibility, testing and labelling requirements for defined energy-using systems. Other jurisdictions are moving in this direction, with Australia signalling it will consider setting standards for energy systems in its own regime. While increasing the MEPS of individual components of a system still has a vital role to play in delivering energy savings, applying a systems-based approach has the potential to provide additional energy savings for consumers.

61. This option will allow the regulatory regime to be extended to cover ‘energy-using systems’. This will allow standards to be set for other components of a system, or the entire system itself. For example, electric motors are currently subject to MEPS, but not the fan it is powering.[8] Setting overall efficiency requirements for the system to include

[8] The European Union currently regulates fan systems Commission Regulation (EU) No 327/2011 of 30 March 2011 implementing Directive 2009/125/EC of the European Parliament and of the Council with regard to

the drive system and fan components, ensures the system is as efficient as possible, while still allowing flexibility for designers with the choice of components.

62. As with the existing product classes, regulations would need to specify the particular 'energy-using systems' that would be subject to minimum performance standards, testing and/or labelling requirements.

Stakeholder views

63. This proposal was well supported by submitters who viewed expanding the regime's scope to include energy-using systems as a way to encourage energy efficiency without stifling innovation. Submitters highlighted the benefits for particular energy-using systems, including hot water heat pumps and solar installations supported by battery storage.

How do the options compare to the status quo?

Key: ++ much better than doing nothing/the status quo + better than doing nothing/the status quo /the status quo
0 about the same as doing nothing/the status quo
- worse than doing nothing/the status quo - - much worse than doing nothing/the status quo

	Option B1 – *Status Quo*	Option B2 – Allow requirements for energy-using systems
Effectiveness Impact on energy savings	0	++ *Expands the scope of the regime to capture more of the market and therefore increase in-scope energy savings.*
Efficiency Cost to businesses, consumers and/or government	0 .	++ *Allowing requirements to be set for a broader range of products/services, avoiding the need for additional regulation in parts of a wider system.* *System regulation can also reduce manufacturer costs as the number of products in a given system would not be individually regulated.*
Resilience Resilient to market changes, variation	0	++ *Recognises evolving design of energy-using products.*
Fairness and accountability Fair, consistent regulatory design	0	++ *Removes barriers to regulating products that are hard to categorise.* *Aligns with international shift towards regulating systems, alongside individual products.*
Overall assessment	0	++++++++

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

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ecodesign requirements for fans driven by motors with an electric input power between 125 W and 500 kWText with EEA relevance (europa.eu)

64. MBIE recommends progressing with Option B2, allowing for regulation of energy- using systems. Expanding the scope of the regime beyond individual products will ensure it remains fit for purpose and will strengthen the resilience of the regime to future consumer needs. It will also strengthen our regulatory alignment with Australia. Option B2 is an enabling provision in the Act and therefore a separate RIS will be required for any secondary legislation that deals with the energy-using systems to be regulated or the requirements that will apply to those energy-using systems.

Addressing gaps in the current regulatory framework around supply for commercial purposes

Option C1 – *Status Quo*

65. The regime currently regulates at point of sale. The Product Regulations place obligations on manufacturers and importers of regulated products to New Zealand and persons dealing directly with consumers (ie, retailers who make regulated products available for sale, lease, hire or hire purchase). However, a non-compliant item can be manufactured or imported to New Zealand with no consequences if there is no sale, lease, hire or hire purchase of the item to another party.

66. This leaves a significant gap in the regime's scope. Under the status quo, for example, businesses can import non-compliant products into the country for their own commercial purposes, such as EV chargers that do not have demand flexibility capability for their vehicle fleet.

Option C2 – *Expanding types of supply to include supplying for commercial purposes*

67. This option expands the regulated parties to include businesses that:

- import products for their own commercial purposes
- provide to other businesses for commercial purposes (eg, through a wider services agreement)
- provide to customers through promotional offer or as a component of a unit (eg, an appliance directly imported to be sold as part of a property).

68. This expands the regime from regulating at point of sale, lease or hire, to include when the regulated energy using product is brought into (or manufactured in) New Zealand for commercial purposes, or providing to others through methods other than sale, lease, hire or hire purchase. It would also expand the regime to include individuals and businesses not previously covered by the regime. This is consistent with the approach taken by the Australian regime.

69. It is important to address the current gap in the regulatory framework because there are also market failures linked to this type of supply – split incentives and principle-agent problems – which could place additional pressure on the grid. Addressing this gap would provide a more level playing field for regulated businesses that compete with direct importation of products for own commercial purposes.

70. This option would enable the regime to capture more of the market and enable any future demand flexibility standards from Option A2 to apply to new and potentially significant sources of demand from this type of supply, such as EV chargers.

71. It is difficult to quantify the savings that could be gained through this option as there is no accurate data on the number of energy-using products currently in New Zealand that do not meet MEPS. EECA would likely monitor these newly regulated parties and the energy using products supplied for commercial use, through arrangements with Customs and by building their knowledge and networks throughout the relevant sectors.

Stakeholder views

72. All submitters who commented on the proposal supported expanding the regime to cover all types of supply. They felt that this would help to maintain the integrity of the system, address an important loophole, and ensure consistency across the market.

Option C3 - *Expanding types of supply to include online purchases from overseas websites for non-commercial purposes*

73. This option expands the scope of the regime to include regulated products purchased online, via overseas websites. Option C2 brings energy-using products purchased online, for commercial use, into the regime. However, this option goes further by expanding the regime to include purchases for individual (non-commercial) use.

74. This would close a loophole that currently exists. However, it would not be consistent with the requirement for importers and manufacturers to fill out a prescribed form with the regulator, unless all individuals in New Zealand purchasing a regulated product from overseas also submitted a prescribed form to EECA.

75. Currently regulated parties are required to complete a prescribed form including statistical information. Regulating individuals who bring into New Zealand products subject to the regime's requirements for personal use, would be a significant shift from regulating those who manufacture, import and sell products. Although EECA does not have an indication of how many individuals this would impact, they have indicated that this option would be challenging to monitor and enforce. It would likely require a shift in focus of the regulatory regime, from point-of-sale to when products enter the country at the border.

How do the options compare to the status quo?

Key: ++ much better than doing nothing/the status quo + better than doing nothing/the status quo /the status quo 0 about the same as doing nothing/the status quo - worse than doing nothing/the status quo - - much worse than doing nothing/the status quo

	Option C1 – *Status Quo*	Option C2 – Expanding types of supply to include commercial use	Option C3 – Expanding types of supply to include online purchases
Effectiveness Impact on energy savings	0	++ *Greater energy savings resulting from more products and services being covered by the Regulations.*	+++ *Greater energy savings resulting from more products and services being covered by the Regulations.*
Efficiency Costs to businesses, consumers and/or government	0	0 *Expanding existing regime means minimal additional costs to government. Removing option of cheaper, less energy-efficient products from market means some consumers will spend more on compliant products.*	- - *Although additional resourcing cannot be quantified, it would likely be significant to enable the regulator to effectively monitor and enforce this expansion in scope.*
Resilience Resilient to market changes, variation	0	+ *Brings the regime up to date with current trends in how energy using products are supplied in New Zealand market. Will enable the regime's expanded scope to*	0 *Brings the regime up to date with current trends in how energy using products are supplied in New Zealand market. It will also enable the regime's expanded scope to include demand flexibility to*

		include demand flexibility to apply to a greater diversity of supply.	*apply to a greater diversity of supply, however the challenges with monitoring and enforceability could make responding to market changes difficult.*
Fairness and accountability Fair, consistent regulatory design	0	++ *Closing a loophole will make the system fairer. Having additional types of supply covered by the regime may also increase rates of compliance (reducing non-compliance that may occur due to other parties not being subject to same requirements).*	- - *Places significant obligations onto New Zealand consumers, without the capacity to effectively monitor and enforce these obligations. This may lead to inconsistent treatment of regulated parties.*
Overall assessment	0	+++++	-

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

76. MBIE recommends Option C2, expanding the types of supply to include supplying for commercial purposes. This closes a loophole in the regime that allows the use of non-efficient energy using products in New Zealand. Greater energy savings will be achieved by requiring energy using products and services supplied for commercial purposes to meet the standards. As Australia regulates the use of products for commercial purposes, Option C2 would limit divergence between New Zealand and Australia's regulatory regime, providing for greater alignment in E3 cooperation and processes.

77. Option C3 also closes a loophole that allows potentially non-compliant products into New Zealand. However, this would require a substantial shift in focus for the regulatory regime and would come with great challenges in enforcing the Regulations. For these reasons, MBIE does not recommend progressing with Option C3.

What are the marginal costs and benefits of the option?

Affected groups *(identify)*	**Comment** *nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.*	**Impact** *$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.*	**Evidence Certainty** *High, medium, or low, and explain reasoning in comment column.*
Additional costs of the preferred option compared to taking no action			
Regulated groups	Ongoing - additional costs to businesses if cheaper, less efficient products are no longer available to import/manufacture. Ongoing – additional compliance costs (associated with new duties) to a wider range of businesses than are currently covered by the regime.	Low	High
Regulators	Ongoing - Additional costs associated with the increasing number of products being regulated / increasing number of regulated parties.	Low	Medium – expansion of current role, however new monitoring arrangements will be required, which may increase costs.
Others (eg, wider govt, consumers, etc.)	Additional costs to businesses may be passed on to consumers.	Low	Medium
Total monetised costs			
Non-monetised costs		*Low*	*Medium*
Additional benefits of the preferred option compared to taking no action			
Regulated groups	Those already regulated will benefit from a more even playing field of those importing energy using products.	High	High
Regulators	Captures more of the market, removes ability for less efficient products coming into New Zealand.	High	High

Others (eg, wider govt, consumers, etc.)	Greater energy savings.	High	High
Total monetised benefits			
Non-monetised benefits		*High*	*High*

Providing a regime for exemptions

Option D1 – *Status Quo*

78. Regulation 11 and 12 of the Product Regulations provide exemptions for second-hand goods and products destined for export or transit. In addition, the Product Regulations specifies a minimum number of products for individual product classes below which the regime's testing and labelling requirements do not apply – that being if a total of 50 or fewer products are manufactured in or imported into New Zealand. However, regulated parties are still required to provide EECA with information on the energy performance characteristics of the item or items.

79. The status quo can prevent some businesses from accessing equipment they require to do their work. It also does not align with Australia's exemptions regime: Australia can grant exemptions to a wider range of aspects on a case-by-case basis. There are other potential cases where making an exemption would (at the very least) not harm the integrity of the regulatory regime and would often reduce an administrative burden on EECA and/or business. These could include cases where businesses require products with specifications falling outside the relevant MEPS.

Option D2 – Amend the Act to enable Regulations to provide for class-based exemptions from MEPS, demand flexibility, labelling and testing requirements

80. This option proposes to amend the Act in order to enable regulations to provide an exemptions regime for one or more product classes. This would require a new regulation-making power in the Act, and for the Act to set criteria and/or specify the situations that would warrant this exemption. This option provides more clarity for regulated parties and reduces compliance costs for businesses as the provisions will enable businesses to clearly determine whether or not they are eligible for an exemption. Parties who meet the criteria for an exemption will be required to complete a declaration for EECA. This option also provides a broad scope for potential exemptions under the regime.

Option D3 – Amend the Act to enable Regulations to be provide class-based and *de minimis* exemptions, and to provide EECA with the power to grant case-by-case exemptions from MEPS, labelling and testing requirements

81. This option would amend the Act to specify that regulations may provide class-based exemptions and may specify a minimum number of products below which aspects of energy performance, testing and labelling requirements would not apply ('*de minimis*'). The criteria for making regulations that provide for class-based and de minimis exemptions will be included in the Act.

82. Option D3 would also amend the Act to provide EECA with the power to grant case-by-case exemptions via application. This will ensure businesses can still access products, services and systems that may not meet minimum standards but are needed for certain

activities – and which have not been otherwise provided for via other exemptions provisions.

83. EECA would be required to consider a defined set of criteria as set out in the Act when granting exemptions on a case-by-case basis. Confidential advice to Government

Confidential advice to Government
Confidential advice to Government
Confidential advice to Government

84. In comparison to Option D2, this option may allow for a more tailored approach to exemptions and the particular circumstances in which they are warranted.

85. Expanding the regime to cover supply for commercial purposes, outlined in Option C2 will present increased compliance costs for businesses captured under the regime. Therefore, it is important the regime allows businesses importing for their own commercial purposes to be exempt from regulation where appropriate, such as in circumstances where the number or nature of products may have a negligible impact on energy savings and/or energy systems.

86. The breadth of this option would allow the regime to accommodate exemptions in a range of scenarios and strike a balance between the wider system benefits of expanding the scope of the regime to cover supply for commercial purposes, while minimising unnecessary compliance burdens on regulated parties (particularly small businesses). It also provides sufficient flexibility to adapt the exemptions regime to the product classes captured in regulations as the market evolves.

How do the options compare to the status quo?

Key: ++ much better than doing nothing/the status quo + better than doing nothing/the status quo /the status quo
0 about the same as doing nothing/the status quo
- worse than doing nothing/the status quo - - much worse than doing nothing/the status quo

	Option D1 – *Status Quo*	**Option D2 – Introduce a new class of products to be exempt**	**Option D3 – Introduce class-based, *de minimis* and case-by-case exemptions**
Effectiveness Impact on energy savings	0	+ *Broad class requirements may be an improvement to the status quo; however, this provides less flexibility to tailor exemptions to the likely impact on energy savings*	++ *Option D3 is likely to have negligible impacts on energy savings under the regime and will provide a more tailored exemption regime that takes into account impacts on energy savings to a greater extent than Option D2.*

Efficiency Cost to businesses, consumers and/or government	0	+ *Reduces compliance costs to businesses.* *Provides certainty to regulated parties that are subject to exemptions but are still required to complete a declaration.*	++ *Also reduce compliance costs to businesses, as well as the administrative burden for EECA. While the case-by-case application process may incur some added costs, the volume of applications under a more flexible exemptions regime is likely to be low.*
Resilience Resilient to market changes, variation	0	0 *May not have the ability to consider differences across the new class exemptions, for example, bespoke arrangements for a particular product vs the standard*	++ *Provide flexibility for a range of different scenarios that allow businesses to still access products they require, including bespoke arrangements that are not covered in Option D2.*
Fairness and accountability Fair, consistent regulatory design	0	+ *A broad exemption may not be considered fair by other regulated parties who are required to comply; however the regulatory design is likely more straight forward and consistent.*	++ *Appropriate exemptions will build trust with industry and businesses and facilitate compliance, while still ensuring there are safeguards in place (i.e., the criteria that EECA have to consider for case-by-case)*
Overall assessment	0	+++	++++++++

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

87. MBIE prefers option D3. This will balance the wider system benefits of expanding the types of supply covered by the regime (Option C2) with mitigating compliance costs for small businesses, in particular. The case-by-case aspect of Option D3 will also ensure that businesses can still access equipment that is specific to their needs, provided they meet the robust criteria outlined above or qualify for a relevant class-exemption. This approach will enable the regime to be more resilient to change as it adapts to cover supply for commercial purposes, minimising compliance burdens when appropriate while still ensuring that any products being on-sold or provided to third parties are subject to an appropriate exemption application process.

What are the marginal costs and benefits of the option?

Affected groups *(identify)*	**Comment** *nature of cost or benefit (eg, ongoing, one-off), evidence and*	**Impact** *$m present value where appropriate, for monetised impacts;*	**Evidence Certainty** *High, medium, or low, and explain*

	assumption (eg, compliance rates), risks.	*high, medium or low for non-monetised impacts.*	*reasoning in comment column.*
Additional costs of the preferred option compared to taking no action			
Regulated groups	Ongoing: Some resourcing to prepare an exemptions application if they do not qualify for class-based exemptions.	Low	High
Regulators	Ongoing: Some staff resource required to consider individual applications for exemption on a case-by-case basis.	Low (based on anticipated low numbers of applications for exemption)	Medium
Others (eg, wider govt, consumers, etc.)	Potential for higher electricity costs to consumers from exempt products in the market.	Low	Medium
Total monetised costs			
Non-monetised costs		*Low*	*Medium*
Additional benefits of the preferred option compared to taking no action			
Regulated groups	Ability to bring products that are required, but that do not meet MEPS, into the New Zealand market. May remove compliance requirements for those who meet exemption criteria and/or complete the application process.	High	High
Regulators	Ability to consider a set of defined criteria when considering any applications for case-by-case exemptions.	Low	High
Total monetised benefits			
Non-monetised benefits		*Medium*	*High*

Updating labelling requirements to include online sales

Option E1 – *Status Quo*

88. Under the status quo, online retailers who do not have a physical regulated item on display, or a display front, have no labelling requirements under the Product Regulations. In comparison to when the regime was first introduced, New Zealanders

increasingly use the internet to make purchases or find information about products. The lack of requirement to provide energy efficiency information for online sales limits consumers' ability to compare models.

89. This is inconsistent with the Vehicle Regulations, which require energy economy information to be displayed on websites, when certain motor vehicles are offered for sale online. The Regulations state that the energy information must be displayed:

- clearly and prominently on the same webpage as the vehicle
- so that its text can be easily read
- so that it obviously relates to the vehicle.

Option E2 – *Expanding labelling requirements for products and services to cover online sales*

90. This option would require the current labelling requirements to be extended to cover online sales from New Zealand websites. This will close an existing loophole, align the labelling requirements for products with those of vehicles, and ensure the regulatory regime continues to be effective and relevant to consumer behaviour. Introducing labelling requirements for online sales would support greater Trans-Tasman alignment, as the Australian regime is planning to introduce similar requirements.

91. As with the details of the physical labels, secondary legislation will specify the required information.

Stakeholder views

92. The majority of submitters supported including labelling requirements for online retailers, stating it would benefit consumers to have energy efficiency information visible when making purchases online, and be able to compare information between different models, brands and websites.

93. Common concerns from submitters included the potential for reduced consumer choice and increasing costs of online products, if retailers decide to opt out of the market.

How do the options compare to the status quo?

Key: ++ much better than doing nothing/the status quo + better than doing nothing/the status quo /the status quo 0 about the same as doing nothing/the status quo - worse than doing nothing/the status quo - - much worse than doing nothing/the status quo

	Option E1 – *Status Quo*	Option E2 – Expanding labelling requirements to cover online sales
Effectiveness Impact on energy savings	0	++ *Increase in energy savings as a result of more consumers being well informed of efficiency ratings of energy using products.*
Efficiency Costs to businesses, consumers and/or government	0	0 *Expanding existing regime means minimal additional costs to government. Some additional costs to online retailers that may be passed on to consumers.*
Resilience	0	0

Resilient to market changes, variation		*Brings the regime up-to-date with current trends in how energy using products are sold in New Zealand.*
Fairness and accountability Fair, consistent regulatory design	0	++ *Closing a loophole will make the system fairer. Consistent treatment for those who supply regulated products directly to consumers.*
Overall assessment	0	++++

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

94. MBIE recommends Option E2, expanding labelling requirements to cover online sales. It will provide a benefit to those who research and purchase products online and align with what is currently in place in the Vehicle Regulations.

What are the marginal costs and benefits of the option?

Affected groups *(identify)*	**Comment** *nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.*	**Impact** *$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.*	**Evidence Certainty** *High, medium, or low, and explain reasoning in comment column.*
Additional costs of the preferred option compared to taking no action			
Regulated groups	One-off cost to retailers who sell online models of product classes subject to labelling requirements. Once established, ongoing cost expected to be minimal.	Medium	Medium –no data on costs to upgrade websites
Regulators	Costs to establish new labelling requirements for online sales via rules. Additional monitoring costs.	Medium	High
Total monetised costs			
Non-monetised costs		*Medium*	*Medium*
Additional benefits of the preferred option compared to taking no action			
Regulated groups	In-store retailers will benefit from labelling requirements being consistent across	High	High

	different types of retail.		
Others (eg, wider govt, consumers, etc.)	Consumers can more easily make informed decisions when purchasing regulated products. Greater energy savings, benefiting all New Zealanders.	High	High
Total monetised benefits			
Non-monetised benefits		*High*	*High*

Streamlining the regime's processes

95. The options considered in this section aim to achieve the objective identified below:

- ***Streamlining processes*** by removing unnecessary 'red tape' so we keep pace with other developed countries (especially Australia) and have a fit-for-purpose regime that meets modern legislative design principles.

96. We have considered the following options:

- streamlining the process for setting highly technical energy performance, testing and labelling requirements
- technical changes to clarify the regime's requirements, including:
    - updating the definition of 'publicly notify'
    - reflecting real-life standard use of a product in energy performance testing requirements.

Streamlining the process for setting highly technical energy performance, testing and labelling requirements

Option F1 – *Status Quo*

97. The Product Regulations set the technical requirements that specified product classes[9] and services[10] must meet in order to be sold in New Zealand. Any new product requirement, or changes to existing requirements (even minor updates, such as the inclusion of a new testing standard), require Cabinet approval.[11]

98. New Zealand's regime cannot set new technical requirements at the same speed as Australia's. Under the Australian regime (set out under the GEMS Act 2012), the Minister of Climate Change and Energy uses technical determinations under the Act to give effect to E3 programme policy. Cabinet approval is not required for highly technical issues and the regulator can implement technical decisions quickly.

99. In comparison, the technical requirements for specific product classes in New Zealand are drafted directly into the Product Regulations by the Parliamentary Counsel Office (PCO) and put to Cabinet for approval. This results in longer lead times for the introduction of new requirements.

100. Following Cabinet approval, the development of the Regulations (if it is a change in MEPS that is being done in conjunction with Australia) is delayed until the Australian instrument (Determination) is complete. This is to ensure New Zealand can align as much as possible with the Australian Determinations.

101. Any amendments to the Product Regulations are drafted by the PCO. This is an iterative process that requires several rounds of consultation with EECA and MBIE, to ensure the technical detail is appropriately translated into the Regulations. The level of

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[9] The product classes that are required to meet certain MEPS and/or labelling requirements are specified within the Product Regulations. The options here do not propose to change this, as any decision to introduce MEPS or labelling requirements for a new type of product, is a decision appropriate for Cabinet.

[10] The Act allows for the prescription of MEPS for energy using products and services. To date, MEPS and labelling requirements have only been made for products.

[11] In addition, any changes to Product Regulations requires public consultation via the New Zealand newspapers and the New Zealand Gazette (Section 36(2) of the Act). New Zealand is also party to the World Trade Organization's Technical Barriers to Trade Agreement, which requires notifying member countries to any proposed changes to product requirements.

technical detail is unusual and, arguably, inappropriate for drafting by PCO and Cabinet scrutiny.

102. Delays in setting new technical requirements cost New Zealand. EECA estimates the lost energy savings caused by delays in adopting regulatory requirements for household fridge-freezers Australia adopted in 2021 at around 300 GWh – or the annual electricity usage of 37,000 households.

Option F2 – F4

103. The options outlined below provide alternatives for setting and updating the technical details of the individual requirements for products, services, systems and vehicles. The process for regulating a new product class, system and service and the high-level decision regarding MEPS levels is not proposed to change. This is a less technical and more significant decision and is therefore appropriate for Cabinet approval and drafting by PCO.

Option F2 - Delegating decision-making of all technical requirements to the Minister for Energy via Rules

104. This option proposes delegating the setting of all technical requirements to the Minister for Energy via Rules. Rules are appropriate when requirements are very technical in nature, require specialist knowledge, or when the requirements need to be updated frequently. The detail of MEPS, testing, and labelling requirements meet these criteria. This approach aligns with other regulatory frameworks, including the Health and Safety at Work Act 2015 and the Building Act 2004.

105. Because MEPS are highly technical, a significant amount of time is needed to translate the technical information into a suitable form for regulations. This option would require EECA to draft the Rules[12] and provide them to the Minister for Energy for approval. While this option would require EECA to develop the necessary expertise to undertake the drafting, it would also allow EECA to leverage its technical expertise and avoid burdening the PCO with drafting of highly specialist, technical information. If this proposal is implemented, it is likely to result in a more efficient drafting process in future.

106. This option removes the need to take decisions of a very technical nature to Cabinet. It also removes the need for secondary legislation that sets technical requirements to be submitted to Cabinet and the Executive Council. It is also more consistent with the Australian process.

107. The Rules would be required to be presented to the House of Representatives and would be subject to disallowance, as per the standard requirements under the Legislation Act 2019. They would be required to be published on EECA's website.

Stakeholder views

108. The proposed option was supported by all those who commented on it. Submitters noted that they felt the current requirement to take new standards to Cabinet for approval is cumbersome.

109. Although no submitters opposed the proposal, they highlighted the need to retain robust consultation and analysis, and ensure the Minister receives advice from appropriate technical experts before making any decisions.

Option F3 – Delegating decision-making of all technical requirements to EECA

110. This option proposes setting technical requirements by notices, or other instruments, made and approved by the EECA Board, instead of regulations. This would allow

[12] PCO drafts all secondary legislation (including Rules) that is made by Order in Council. This proposal is for Rules that are not made by Order in Council, and therefore not required to be drafted by PCO.

EECA to set the technical details of MEPS, demand flexibility and testing and labelling requirements, without requiring approval of Cabinet or the Minister for Energy.

111. This would locate both the decision-making and the drafting with the party with the relevant technical expertise. The Legislation Design and Advisory Committee (LDAC) Guidelines note that the more technical the exercise of the power, and the more limited the group it applies to, the more likely it is appropriate for delegation to an agency. However, this option does remove the safeguard of scrutiny by the Minister and/or Cabinet and would create a situation where the entity setting the rules is also implementing and enforcing the rules.

Option F4 – Ability to issue notices for minor amendments

112. This option provides EECA with the ability to issue notices to make minor alterations to MEPS, testing and labelling requirements, to respond to changes required immediately. This option may be considered alongside Option F1 (status quo) or Option F2 (delegating technical requirements to Minister for Energy via Rules). The power to issue notices may be required when minor alterations may be beneficial and required more immediately than the time taken to amend the regulations or rules. This would allow immediate time-limited changes to MEPS, demand flexibility, testing and/or labelling requirements, with the understanding that any permanent change would still be required to go through the standard process to amend the Regulations.

113. However, it is unlikely that this option would be appropriate for this regime, as it would make energy efficiency law less accessible to users who need to understand what the relevant technical requirements are. The World Trade Organisation (WTO) Technical Barriers to Trade Agreement requires any new or amended MEPS to be notified to other WTO members. Any minor alterations that might be considered for amendment would need to be sufficiently minor as to not also require WTO notification. This presents a minor administrative burden in comparison to Option F2.

How do the options compare to the status quo?

Key: ++ much better than doing nothing/the status quo + better than doing nothing/the status quo /the status quo
0 about the same as doing nothing/the status quo
- worse than doing nothing/the status quo - - much worse than doing nothing/the status quo

	Option F1 – *Status Quo*	Option F2 – All technical requirements in Rules	Option F3 – Delegation to EECA	Option F4– Ability to issue notices for minor amendments
Effectiveness Impact on energy savings	0	++ *Ability to capture increased energy savings through faster implementation of MEPS.* *Drafting of the Rules by those with the technical expertise (EECA) reduces some of the delay in the drafting stage (may not be the case initially however, as EECA develops this expertise in drafting).*	++ *Ability to capture increased energy savings through faster implementation of MEPS.* *Drafting of the Rules by those with the technical expertise (EECA) reduces some of the delay in the drafting stage (may not be the case initially however, as EECA develops this expertise in drafting).*	+ *Ability to make minor changes to MEPS/labelling requirements quickly, allowing for any energy savings as a result to be captured immediately.*
Efficiency Costs to businesses, consumers	0	+ *Shifts resourcing requirements from PCO to EECA. Some reduction in*	+ *Shifts resourcing requirements from PCO to EECA. Some reduction in*	+ *Minimal costs for government.*

and/or government		*resourcing required from MBIE (eg, removing need to prepare Cabinet papers, drafting instructions), however MBIE likely required to provide advice to the Minister on proposed rules.* *Additional resourcing would be required for EECA.*	*resourcing required from MBIE (eg, removing need to prepare Cabinet papers, drafting instructions), however MBIE likely required to provide advice to the Minister on proposed rules.* *Additional resourcing would be required for EECA.*	
Resilience Resilient to market changes, variation	0	++ *Greater flexibility to develop new MEPS/labelling requirements in response to market changes.*	++ *Greater flexibility to develop new MEPS/labelling requirements in response to market changes.*	+ *Greater flexibility to respond to market changes, however limited by what is covered by 'minor amendment'; given the technical nature of MEPS, identifying what would be a 'minor amendment' may be very difficult.*
Fairness and accountability Fair, consistent regulatory design	0	++ *Technical details of MEPS and labelling requirements appropriate for Rules.* *Greater alignment with Australian regime (determinations agreed by Minister) and provides the ability to keep pace with the Australian regime.*	+ *Technical details of MEPS and labelling requirements appropriate for Rules.* *Greater alignment with Australian regime (determinations agreed by Minister) and provides the ability to keep pace with the Australian regime.* *Frees up time and resources that would otherwise be required for Cabinet consideration.*	+ *Time-limit on any change, and the requirement for regulatory amendment to be progressed, ensures appropriate process is used for lasting decisions.* *However, minor changes to MEPS/labelling requirements not appropriate for the use of these powers.*
Overall assessment	0	+++++++	++++++	++++

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

114. MBIE considers that Option F2 best addresses the identified problem. If New Zealand progresses to bring into force any new technical requirements continue to follow Australia's Determinations, there will always be a lag between the two regimes. Option F2 will reduce the time taken to develop technical requirements and enable the regime to respond more swiftly to changes in the market.

115. Energy efficiency and demand flexibility requirements are highly technical and are more appropriate for rules as opposed to regulations. While EECA will be required to develop drafting expertise, the benefits of PCO drafting are relatively modest because the legal complexity is low and the interface with other legislation is minimal. For these modest benefits, the costs to PCO are high because its drafters need to understand the highly technical subject matter to complete the work. In addition, the legislation applies

only to a limited class of persons in the specialised field. PCO's drafting expertise can be put to better use on legislation with wider impacts.

116. There will still be checks and balances through publication on EECA's website in accordance with legislative requirements guided by PCO's secondary legislation access standards, in presenting to the House of Representatives, and the potential for disallowance from Parliament. EECA will also be able to access PCO tools and resources, including PCO's secondary legislation drafting toolkit, community of practice and the legislative services panel.

What are the marginal costs and benefits of the option?

Affected groups *(identify)*	**Comment** *nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.*	**Impact** *$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.*	**Evidence Certainty** *High, medium, or low, and explain reasoning in comment column.*
Additional costs of the preferred option compared to taking no action			
Regulators	Additional resourcing required to draft instruments Confidential advice to Government Confidential advice to Government Confidential advice to Government Confidential advice to Government Confidential advice to Government	Low Confidential advice to Government Confidential advice to Government Confidential advice to Government Confidential advice to Government Confidential advice to Government	High
Total monetised costs			
Non-monetised costs		*Low*	*High*
Additional benefits of the preferred option compared to taking no action			
Regulated groups	With a greater ability to make changes to MEPS/labelling requirements in a timely manner, it ensures the requirements match changes in the market/technology.	Medium	Medium
Regulators	More efficient way to amend MEPS/labelling requirements.	Medium	Medium
Others (eg, wider govt, consumers, etc.)	Savings for Parliamentary Counsel Office, no longer required to draft instruments. Removing requirement to take decisions to Cabinet.	Low	High
Total monetised benefits			
Non-monetised benefits		*Medium*	*Medium*

Technical changes to clarify the regime's requirements and ensure the Act meets modern legislative design principles

117. The technical changes and clarifications described below are examples of proposals where there are no other feasible options to consider.

Updating the definition of 'publicly notify'

118. The Act currently requires the Minister for Energy, before making regulations under the Act, to publicly notify the proposal. However, the current definition of 'publicly notify' in the Act does not align with modern public consultation requirements.

119. MBIE recommends pursuing a technical change to amend the act to require that:

- for any new regulations or changes to existing regulations, a notice must be published in the Gazette, or in one or more newspapers circulating in the area, or on the website of the agency administering the Act (MBIE)
- for any new rules or changes to existing rules, a notice must be published in the Gazette and on EECA's website.

Reflecting real-life standard use of a product in energy performance testing requirements

120. While products, systems or services need to be tested to ensure that they are meeting minimum energy efficiency standards, the prescribed testing methods need to reflect their real-world use, via appropriate settings, features or cycles. For example, a prescribed method for testing the energy efficiency of a dishwasher should specify that product testing includes procedures to verify that it is effectively cleaning dishes on a standard cycle.

121. Without this clarification, there is a risk that an energy efficiency rating loses its value for the consumer because the regulated item is not performing its core function adequately. EECA has encountered situations where products meet minimum energy efficiency standards but are effectively unusable when in operation. This proposal is consistent with the sustainability principles under section 6 of the Act.

122. MBIE therefore recommends a technical change to:

- amend the Act to clarify that when the Minister sets rules, the requirements associated with those rules may also include requirements related to the overall performance of the product, system or service.

Section 3: Delivering an option

How will the new arrangements be implemented?

123. The preferred package of options will require amendments to the Act which will be progressed in the Energy Efficiency and Conservation Amendment Bill. A number of the proposals require the development of secondary legislation. It is intended that policy for secondary legislation will be developed as the Bill progresses through Parliamentary and Select Committee processes.

124. MBIE will lead the development of any changes required to the regulations as a result of the expanded scope and new enabling powers proposed for the Act. EECA will be responsible for developing new rules for energy using products, systems and services, and communicating to stakeholders, as it currently does for product requirements. Where possible, EECA will work with their Australian counterparts to align the requirements across the Trans-Tasman market.

125. MBIE and EECA will work together to determine possible implementation pathways, especially the implementation of rules.

Timing of implementation

126. Given the technical nature of the regime and the enabling provisions it is likely some changes may take a significant amount of time to be established. For example:

- The development of new requirements for demand flexibility and energy-using systems will require consultation, and the development of new standards/product classes (requiring Cabinet approval); this can only occur once the amended legislation is in place. The technical requirements (to be set in rules) will follow any changes to the Regulations.
- The extension of labelling requirements to cover online sales, will require changes to websites, which will be factored in when this proposal is implemented.
- Formalising the process for providing for exemptions: new regulations will be required, and a robust process internally within EECA to consider exemption applications, including the process to seek Board approval.

127. It is intended that amendments to the Regulations will be made following the Bill's enactment. Given the scale of changes required to the Regulations under the Act, these may be done progressively. Further prioritisation work will need to be undertaken if the changes are to be phased.

Building EECA's capability

128. Building capability in EECA is required so the strengthened regulatory function can be put into practice. This will be done by employing an appropriate level of staff with regulatory experience and/or upskilling current staff. Areas where there will need to be upskilling include:

- developing technical ability to draft rules Confidential advice to Government It may take time for this expertise to develop, and the use of external legal resourcing may be required following implementation.

129. EECA currently have expertise in demand flexibility, given their work in this area to date. The expansion to the scope of the regulatory regime will allow EECA to focus this existing expertise into their regulatory work programme.

Risks in implementing the preferred package of options

130. We consider that there is minimal risk to government in implementing the preferred package of options. Any risks include:

- EECA's capacity to adequately resource their new functions and the expansion of the regime
- future MEPS, demand flexibility, testing and labelling requirements may lead to an increase in costs for manufacturers and importers, which would likely be passed onto the consumer. We consider the risk of this is low, given the detailed regulatory impact analysis that are undertaken in any existing MEPS proposal.

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

131. MBIE expects that some of the new arrangements will be monitored through existing mechanisms, for example MBIE's monitoring functions of EECA as a Crown Entity. MBIE's insights and evaluation functions (in the Digital, Data and Insights Group) also periodically reviews energy initiatives. Where there are new functions for EECA, appropriate performance monitoring standards and measures will be developed as required and funded through existing baselines.
132. MBIE will have oversight to ensure EECA and its Board have sufficient processes in place, and Board approval of any exemption application. It is the EECA Board's role to provide effective governance across EECA to ensure it effectively performs its roles and functions and delivers on Government priorities. MBIE, as Crown monitor, has a role in assessing the capability and performance of EECA's board.
133. MBIE will review the updated regime once changes have been embedded into EECA's systems and the regime has been operating for a couple of years. The focus of a review may include whether transferring technical requirements from Regulations to rules has streamlined the implementation of new MEPS, testing and labelling requirements.

Appendix A: Energy efficient products and services – A regulatory reform discussion document: list of proposals

Proposal	Status
Future-proofing the regime	
Allowing for the future regulation of demand flexibility	Preferred Option A2
Enabling the future regulation of energy-using systems	Preferred Option B2
Addressing gaps in the current regulatory framework	Preferred Option C2
Providing a regime for exemptions	Preferred Option D3
Updating labelling requirements to include online sales	Preferred Option E2
Streamlining the regime's processes	
Streamlining the process for setting highly technical energy performance, testing and labelling requirements	Preferred Option F2
Allow MEPS and labels to include performance testing requirements that reflect real-life standard use of the product	Technical change required
Amending the Act's definition of 'publicly notify'	Technical change required
Specify the lead-in time for new or revised standards coming into force	To be considered when progressing changes to the Product Regulations
Proposals not considered in this RIS	
Allow MEPS and labels to include greenhouse gas emissions requirements	Not considered in this RIS
Allow EECA to pass on sales data to agents carrying out functions for EECA	Not considered in this RIS
Allow EECA to charge a fee to cover the costs associated with administering the regulatory system	Not considered in this RIS
Enhancing EECA's monitoring, inspection, and investigation powers	Not considered in this RIS
Adopt a graduated set of enforcement interventions	Not considered in this RIS
Increase the maximum penalty level so that it acts as a sufficient deterrent against non-compliance	Not considered in this RIS
Outline the requirements importers and New Zealand manufacturers need to meet to register products	Not considered in this RIS
Provide for a process of internal review and a right of appeal in the Act	Not considered in this RIS