



## COVERSHEET

<b>Minister</b>	Hon Kris Faafoi	<b>Portfolio</b>	Broadcasting, Communications and Digital Media
<b>Title of Cabinet paper</b>	Early Access to 5G radio spectrum	<b>Date to be published</b>	20 December 2019

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
9 December 2019	Cabinet paper: Early Access to 5G Radio Spectrum	Office of the Minister of Broadcasting, Communications and Digital Media
9 December 2019	Cabinet Economic Development Committee Minute of Decision: Early Access to 5G Radio Spectrum	Cabinet Office

### Information redacted

**YES**

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

Some information has been withheld for the reasons of:

- Confidentiality
- Commercial information
- Negotiations
- Confidential advice to Government



# Cabinet Economic Development Committee

## Minute of Decision

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

### Early Access to 5G Radio Spectrum

**Portfolio**                      **Broadcasting, Communications and Digital Media**

On 4 December 2019, the Cabinet Economic Development Committee (DEV):

#### Background


- 1        **noted** that on 12 December 2018, DEV agreed that the radio spectrum frequency range 3.41 – 3.80 gigahertz (the 3.5 GHz band) be partly allocated for 5G cellular mobile services use [DEV-18-MIN-0311];
- 2        **noted** that long-term (up to 20-year) rights will be available from November 2022 when existing rights in the 3.5 GHz band expire;
- 3        **noted** that at the time of the above decisions, it had been expected that mobile network operators would enter into commercial agreements with the existing rights holders if they wanted access before November 2022, but that further government intervention could be considered;
- 4        **noted** that there is currently 210 megahertz (MHz) of unallocated spectrum in the 3.5 GHz band;
- 5        **noted** that on 2 April 2019, the Cabinet Māori Crown Relations – Te Arawhiti Committee authorised the Minister of Broadcasting, Communications and Digital Media, in consultation with the Minister for Māori Crown Relations: Te Arawhiti and the Minister for Māori Development, to lead engagement to address the outstanding Treaty issues around radio spectrum [MCR-19-MIN-0006];

#### New developments

- 6        **noted** that some mobile network operators have had difficulty reaching commercial agreements and have asked the government to provide short-term access to spectrum in the 3.5 GHz band that is currently unallocated;
- 7        **noted** that any short-term rights in the 3.5 GHz band would expire on 31 October 2022, once long-term rights begin on 1 November 2022, consistent with previous Cabinet decisions;
- 8        **noted** that a Māori Spectrum Working Group comprised of WAI776/2224 claimants and other Māori stakeholders has been established to engage with the Crown, and that Ministers and officials have had productive discussions with this group on shared interests in spectrum;

- 9 **noted** that the breadth of organisations represented on the Māori Spectrum Working Group represents a strong mandate to engage with the Crown, but that ongoing engagement with wider Māori will be required to support this mandate;
- 10 **noted** that Ministers and officials have been engaging with Māori on shared interests in spectrum and have reached agreement (subject to Cabinet approval) on a proposal that would allow Māori to build capability and technical expertise in spectrum-related sectors;

### Māori interests in spectrum

- 11 **noted** that the WAI 776/2224 claimants continue to maintain that radio spectrum is a taonga protected under Article Two of the Treaty of Waitangi;
- 12 **noted** that, while not accepting the claimants' position, the government does accept that Māori have significant interests in spectrum relating to economic development;
- 13 **noted** that a package including short-term rights to spectrum in the 3.5 GHz band and funding for a programme of work is proposed to address Māori interests in spectrum in the short-term;
- 14 **agreed** that 50 MHz of spectrum in the 3.5 GHz band be allocated to Māori, at no cost, for the period until 31 October 2022;
- 15 **noted** that the Māori Spectrum Working Group has developed a research, capability building and engagement programme that will enable Māori to explore areas of interest before discussions on an enduring solution with the Crown;
- 16  Negotiations
- 17 **noted** that there are many matters of detail on the programme of work, interim spectrum holding entity, and funding that will require further decisions;
- 18 **authorised** the Ministers for Māori Crown Relations: Te Arawhiti; Finance; Māori Development; and Broadcasting, Communications and Digital Media to make decisions on the administrative arrangements for this spectrum, including interim spectrum holding entity, without further reference to Cabinet;
- 19 **noted** that the Ministers for Māori Crown Relations: Te Arawhiti; Finance; Māori Development; and Broadcasting, Communications and Digital Media will continue to engage with Māori stakeholders in 2020 and 2021 to establish an enduring arrangement regarding shared interests in spectrum;
- 20 **invited** the Minister of Broadcasting, Communications and Digital Media to report to DEV in 2021 on an enduring solution in relation to Māori interests in spectrum;

### Short-term commercial spectrum allocation

- 21 **agreed** that short-term rights for 160 MHz of spectrum in the 3.5 GHz band be allocated as national management rights, by auction, for a term concluding on 31 October 2022;
- 22 **agreed** that a limit ('cap') will be imposed on allocations of these short-term rights to any single operator to maintain and foster competition in the mobile market;

- 23 **agreed** that participants in the auction be required to return existing rights in the 3.5 GHz band to the Crown to maximise the allocative efficiency of spectrum;
- 24 **agreed** that participants in the auction who return spectrum rights in the 3.5 GHz band to the Crown receive a discount on their purchase price, pro-rated on a per megahertz basis;
- 25 **agreed** that post-allocation requirements be imposed on national allocations to ensure that rights are used for their intended purpose and not for speculation;
- 26 **noted** that these decisions set the high-level parameters for the allocation, but that there are many matters of detail that will require further decisions;
- 27 **authorised** the Minister of Broadcasting, Communications and Digital Media to make decisions on the detailed design of the commercial allocations, without further reference to Cabinet;
- 28 **agreed** that further decisions on the use of any returned or unallocated blocks of spectrum after the auction be delegated to the Minister of Broadcasting, Communications and Digital Media, without further reference to Cabinet;

### **Administrative matters**

- 29 **authorised** the Ministry of Business, Innovation and Employment to create the management rights necessary to enable the spectrum allocations described above.

Janine Harvey  
Committee Secretary

---

#### **Present:**

Hon Grant Robertson (Chair)  
Hon Nanaia Mahuta  
Hon Jenny Salesa  
Hon Kris Faafoi  
Hon Shane Jones  
Hon Willie Jackson  
Hon Eugenie Sage

#### **Officials present from:**

Office of the Prime Minister  
Officials Committee for DEV

#### **Hard-copy distribution:**

Minister of Broadcasting, Communications and Digital Media