



## COVERSHEET

<b>Minister</b>	Hon Dr Megan Woods	<b>Portfolio</b>	Energy and Resources
<b>Title of Cabinet paper</b>	Delegation of Authority to Release Consultation Papers on Proposals Related to Product Energy Efficiency Measures	<b>Date to be published</b>	24 January 2023

<b>List of documents that have been proactively released</b>		
<b>Date</b>	<b>Title</b>	<b>Author</b>
November 2022	Delegation of Authority to Release Consultation Papers on Proposals Related to Product Energy Efficiency Measures	Office of the Minister of Energy and Resources
10 November 2022	Delegation of Authority to Release Consultation Papers on Proposals Related to Product Energy Efficiency Measures ENV-22-MIN-0046 minute	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 reason of Confidential advice to Government.

**[In Confidence]**

Office of the Minister of Energy and Resources

The Chair, Cabinet Environment, Energy and Climate Committee

**Delegation of Authority to Release Consultation Papers on Proposals Relating to Product Energy Efficiency Measures**

**Proposal**

- 1 This paper seeks delegated authority for the Minister of Energy and Resources to release non-contentious consultation papers relating to product energy efficiency measures, the majority of which are proposed under a joint programme with Australia. This would extend my current delegation.

**Relation to government priorities**

- 2 In 2019, the Climate Change Response (Zero Carbon) Amendment Act set into law a new target of net zero emissions of all greenhouse gases (GHG) other than biogenic methane by 2050. New Zealand's first Emissions Reduction Plan (ERP), released in May 2022, specifies emissions targets and actions to be undertaken to meet those targets. As part of New Zealand's climate change programme, the Government has also set an aspirational goal of 100 per cent renewable electricity generation by 2030.
- 3 Increasing the uptake of energy-efficient technologies in factories, businesses and homes is a cost-effective emissions reduction tool and regulation is one lever that can be used to achieve these goals. Improving the energy efficiency regulations has been included as a key initiative within the ERP.

**Background**

- 4 Minimum Energy Performance Standards (MEPS) and energy rating labels underpin the Energy Efficiency and Conservation Authority (EECA)'s most successful energy efficiency programme to date. The 89 million regulated products sold in New Zealand since 2002 are estimated to have delivered 69.96 petajoules (PJ) in energy savings, avoided 2.7 million tonnes of greenhouse gas emissions and accrued \$1.7 billion in national monetary savings due to avoided electricity costs.
- 5 MEPS require products to meet specified minimum energy performance criteria when tested under standardised conditions. Energy performance labels provide consumers with information that enables them to compare the energy use of products relative to others in their category.
- 6 New Zealand and Australia regulate the energy efficiency of products, and opportunities to facilitate trade by harmonising MEPS and labelling on both sides of the Tasman underpins the Equipment Energy Efficiency (E3) Programme.<sup>1</sup> Within New Zealand, regulatory interventions developed through

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<sup>1</sup> The Equipment Energy Efficiency (E3) programme is an initiative of the Australian Government, states and territories and the New Zealand Government. It is one of several programmes governed

E3 are embedded in the Energy Efficiency (Energy Using Products) Regulations 2002.<sup>2</sup>

- 7 Where appropriate, New Zealand may also develop regulatory interventions independently to support energy efficiency and conservation outcomes locally.

### Overview of E3 consultation process

- 8 The process of investigating whether existing MEPS and labelling requirements should be revised, or if new measures should be introduced, typically involves several rounds of consultation. This consultation is a statutory requirement and is led by EECA on my behalf. Following consultation, any proposed changes to MEPS and labelling requirements will be considered by Cabinet.
- 9 An E3 Prioritisation Plan 2021-22 has been published that will influence the E3 programme of work over the next five years (attached as Appendix A). The Plan identifies priority projects for developing MEPS and labelling requirements, including updates to products already included within the E3 Programme, new products that could potentially be introduced, and supporting activity. It takes into account current projects, regulatory reform efforts, the resources allocated to the E3 Programme and stakeholder views.

### Proposal to extend delegation

- 10 I currently have delegated authority to release non-contentious consultation papers on specific products that Cabinet has approved. In 2013, Cabinet delegated authority to the Minister of Energy and Resources to release non-contentious consultation papers on products included in the E3 work plan [EGI Min (13) 27/12 refers]. Cabinet also extended this delegation to include the release of non-contentious consultation papers for industrial products in 2018 [ENV-18-MIN-0018 refers] and smart appliances in 2019 [DEV-19-MIN-0131 refers].
- 11 However, the E3 Prioritisation Plan 2021-22 includes additional products, including commercial equipment such as ovens, deep fryers and food holding cabinets. Therefore, I seek to extend my current delegation to non-contentious consultation papers related to all products included in the plan.
- 12 Following advice from an International Energy Agency workshop<sup>3</sup> in October 2021, the E3 programme now proposes to include digital signage displays to the upcoming consultation on televisions and computer monitors, given the convergence of technologies with this product group. The European Union introduced regulation for electronic displays on 1 March 2021, which brought

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under the trans-Tasman Energy Ministers' Meeting (EMM).

<sup>2</sup> The current regulations cover energy-using products; however the Energy Efficiency and Conservation Act 2000 provides for regulations to be developed relating to MEPS and labelling requirements for energy-using products and services.

<sup>3</sup> The 4E Product Energy Efficiency Trends (PEET) Annex workshop. The product energy efficiency trends work undertaken by IEA 4E is an inter-country collaborative project, to understand differences in product performance and energy consumption between countries. New Zealand is a member of the IEA 4E PEET Annex.

together these products. Therefore, I also seek to extend my current delegation to include digital signage displays. Aligning regulations internationally (where possible) removes international trade barriers and reduces the compliance burden.

- 13 There can also be instances where EECA progresses proposals independent of Australia. These proposals relate to opportunities where it is optimal for New Zealand to have a regulation implemented sooner, or to proceed with initiatives required to support local energy efficiency or conservation needs.
- 14 I therefore also seek to extend my current delegation to non-contentious consultation papers related to any of the products outlined in EECA's planned New Zealand-only priority projects (Appendix B). Appendix B outlines New Zealand-only planned projects, which it has been determined will not be jointly progressed through E3 due to differences in local priority, and early-stage New Zealand planned proposals that are yet to be put to E3 for trans-Tasman progression.<sup>4</sup>
- 15 The delegation I am seeking only relates to the release of non-contentious consultation papers. In determining whether consultation is contentious or not, I will consider the materiality of the proposal, and the likely level of stakeholder and public interest. I will continue to take any consultation papers that I consider may be contentious to Cabinet in the normal manner prior to release, such as in the unlikely event that a proposal would impact a significant number of local manufacturers, or significantly affect consumer choice. Cabinet approval will be sought in relation to any regulatory changes proposed following consultation.
- 16 EECA's New Zealand-only priority projects include demand flexible devices. In addition, the E3 Prioritisation Plan 2021-22 includes electric vehicle (EV) chargers.

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### Benefits of extending the current delegation

<sup>4</sup> Proposals include hot water technology (including electric, gas or solar storage water heaters, gas or electric instantaneous water heaters, and heat pump water heaters), demand flexible devices, variable speed drives (that control the speed of electric motors to match the task at hand), EC Brushless DC motors, milk chillers and destratification fans.

<sup>5</sup> Confidential advice to Government

17 Having delegated authority for products where consultation has already taken place in Australia, would ensure that New Zealand would be able to keep pace with the E3 programme. For products where consultation is yet to commence, having delegated authority for those products will allow for simultaneous consultation in New Zealand and Australia, to ensure our regimes remain aligned.

18 Confidential advice to Government

19 Removing the requirement to take to Cabinet each consultation on products included in the E3 Prioritisation Plan 2021-22 and the New Zealand-only projects, will reduce the burden on Cabinet. It will also speed-up the consultation process, which for the products included in the E3 Prioritisation Plan, will avoid the leakage of inefficient products regulated in Australia into the New Zealand market.

20 Confidential advice to Government

### Financial Implications

21 There are no direct financial implications associated with delegating authority to release non-contentious consultation papers.

### Legislative Implications

22 There are no legislative implications associated with delegating authority to release non-contentious consultation papers.

### Impact Analysis

### Regulatory Impact Statement

23 This paper does not require Regulatory Impact Analysis (RIA) as it relates to the machinery of government. RIA is completed as part of the E3 Programme process and will be included in subsequent advice to Cabinet if a proposal is recommended for implementation.

### Population Implications

24 The proposal to delegate authority to release non-contentious consultation papers for additional products does not have an impact on specific population groups.

## Human Rights

- 25 The proposal to delegate authority to release non-contentious consultation papers for additional products is consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

## Consultation

- 26 The following agencies have been consulted on this paper: EECA, Ministry of Foreign Affairs and Trade, the Treasury; Ministry for the Environment, Standards NZ and New Zealand Customs Service.

## Communications

- 27 No communication is proposed.

## Proactive Release

- 28 I propose to release a copy of this paper on the MBIE website with any redactions I consider appropriate under the Official Information Act 1982.

## Recommendations

The Minister of Energy and Resources recommends that the Committee:

- 1 **note** that New Zealand works with Australia to develop the majority of minimum energy performance standards (MEPS) and energy rating labels through the Equipment Energy Efficiency (E3) Programme;
- 2 **note** that MEPS may also be developed independently of Australia;
- 3 **note** that the process for investigating and developing regulatory proposals involves consultation with stakeholders;
- 4 **note** that the Minister of Energy and Resources currently has delegated authority to release non-contentious consultation papers for specific products previously approved by Cabinet;
- 5 **agree** to extend the Minister of Energy and Resources' delegated authority to release non-contentious consultation papers related to products not currently covered by the Minister of Energy and Resources' existing delegation included in the E3 Prioritisation Plan 2021-22 (Appendix A);
- 6 **agree** to extend the Minister of Energy and Resources' delegated authority to release non-contentious consultation papers related to products included in the Energy Efficiency and Conservation Authority's New Zealand-only priority projects (Appendix B);
- 7 **agree** to extend the Minister of Energy and Resources' delegated authority to release non-contentious consultation papers related to digital signage displays;

Confidential advice to Government

- 9 **note** that Cabinet approval will still be sought for the release of consultation papers that I consider may be contentious;
- 10 **note** that Cabinet approval will still be sought for any proposed new or amended regulations resulting from consultation.

Authorised for lodgement

Hon Dr Megan Woods

Minister of Energy and Resources

The Equipment Energy Efficiency (E3) Program is a multi-jurisdictional initiative delivering a single, integrated approach to energy efficiency standards and energy labelling for new household and business equipment and appliances sold into the Australian and New Zealand markets. The E3 Program operationalises the Inter-Governmental Agreement (IGA) for the Greenhouse and Energy Minimum Standards (GEMS) Act 2012. Its objective is to increase the energy efficiency of new appliances and equipment sold in Australian and New Zealand, thereby reducing energy consumption and associated greenhouse gas emissions.

Setting priorities for the E3 Program is critical to ensuring opportunities to save energy, reduce emissions and lower energy costs for households and business, are realised as soon as possible. Evidence-based prioritisation of opportunities provides a basis for planning and resource allocation.

The 2019 independent review of the GEMS Act recommended a prioritisation process be implemented, to ensure activities that provide the greatest benefit are actioned first.

The E3 Prioritisation Plan for 2021-2022 has been developed to support this by prioritising products and focusing resources on a smaller number of higher-value policies so they can be delivered earlier.

### **How this was developed?**

The Plan shortlists 34 products/projects and identifies 26 of these as ‘top priority’ and 8 as ‘medium term’ priority.

- The top priority items include projects which are currently underway, comprising 10 determinations that are due to expire (sunset) in the next 4 years.
- There are 13 possible new products/projects – 5 prioritised as ‘top priority’ and 8 as ‘medium term’. For each of these new products, the plan sets out a brief rationale for their inclusion, based on research commissioned by E3.
- In addition to this, there is work underway to update administrative and other elements of the GEMS Act in light of the GEMS Act Review and the need to take into account emerging technology and product development.

The prioritisation table at **Attachment A** will influence development of the detailed E3 work program, taking into account current projects, regulatory reform efforts, the resources allocated to the E3 Program, and stakeholder views. The items listed are at various stages of development – from preliminary investigation to Ministerial approval and implementation. Their inclusion does not imply all products will be regulated immediately (or at all). The E3 Program will target policy development to deliver outcomes consistent with program objectives – energy and emissions reductions – and further investigation will inform advice to Energy Ministers on next steps.

### *Sunsetting of GEMS Determinations*

It is standard process for determinations to automatically sunset 10 years after registration on the Federal Register of Legislation, unless a review finds sufficient reason for the determination to continue. The review process for sunseting determinations includes public consultation, to help decide whether to:

- allow the determination to sunset
- remake the determination with minimal changes
- undertake a new regulation impact statement process to test different regulatory requirements.

### *E3 Program Processes*

The regulatory development process comprises several steps and can vary depending on the:

- complexity of the product category
- scope of products
- complexity of regulating the product
- estimated impact on industry.



Figure 1 shows the product developmental process stages to deliver a regulatory E3 project. This assumes activity or decision points are not repeated as a result of feedback. Non-regulatory projects (for example, research and development of consumer tools, voluntary certification schemes, website improvements, voluntary guidance and education campaigns) would be subject to different processes following Stage 2 below.

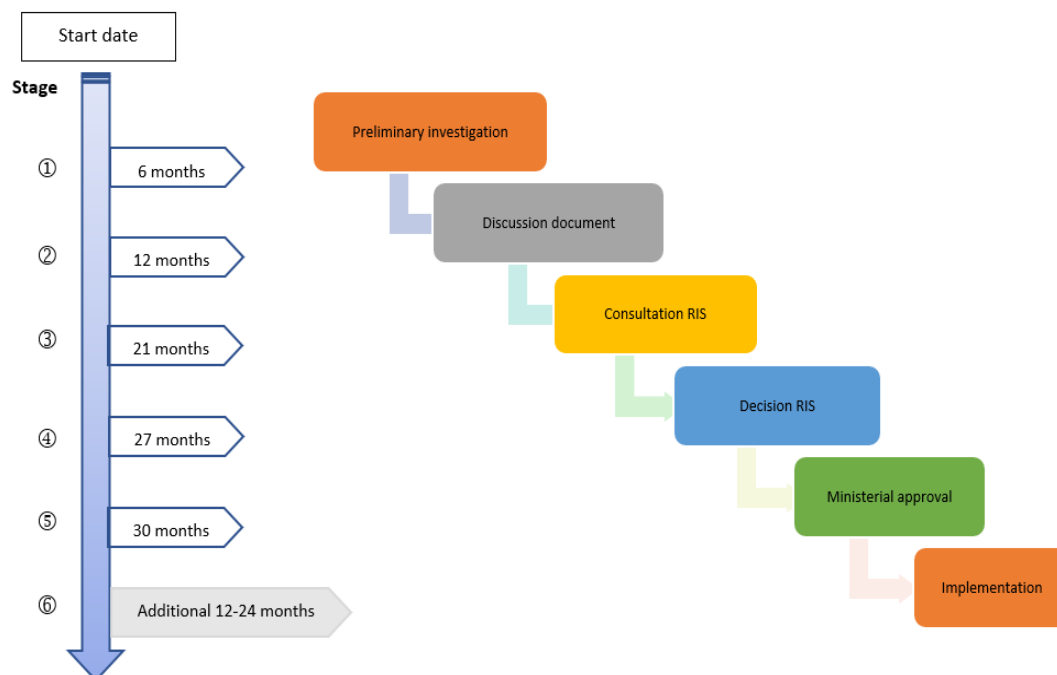


Figure 1: Approximate regulatory development stages and timing

This Prioritisation Plan was developed by the E3 Committee. If you have any questions please contact the Energy Efficiency Secretariat: [EnergyEfficiencySecretariat@industry.gov.au](mailto:EnergyEfficiencySecretariat@industry.gov.au).

# Attachment A: 2021-22 E3 Prioritisation Table

E3 Prioritisation	Category	Product/Project	Product Development Stage <sup>#</sup>	Lead Agency
			(Due date for sunseting)	
<b>Top priority – Current / new E3 products/projects</b>				
Immediate attention will focus on these work streams	Sunsetting Products	Ballasts for fluorescent lamps	1 (1 April 2023)	Cth - DISER
		Close control air conditioners	1 (1 April 2023)	Cth - DISER
		Distribution transformers • <i>Regulation Impact Statement 2022.</i>	2 (1 April 2023)	State - Vic
		Electric Water Heaters	1 (1 April 2023)	Cth - DISER
		Liquid chilling packages ('chillers') • <i>Decision Regulation Impact Statement 2022</i>	4 (1 April 2023)	Cth DISER
		Transformers and converters for ELV lamps	1 (1 April 2023)	Cth - DISER
		Computers	1 (1 October 2023)	Cth - DISER
		Televisions • <i>Regulation Impact Statement 2022</i>	2 (1 October 2023)	Cth - DISER
		Computer monitors • <i>Regulation Impact Statement 2022.</i>	2 (1 October 2024)	Cth - DISER
		External power supplies	1 (1 April 2025)	Cth - DISER
		Residential, Commercial/ Industrial (Other)	Household fridges and freezers • <i>Determination entered into force on 15 August 2021.</i>	6
	Clothes washers, clothes dryers and dishwashers • <i>New determinations citing new standards to be progressed in 2022.</i>		6	Cth - DISER
	Swimming Pool Pumps (Australia only) • <i>Determination enters into force on 1 October 2022.</i>		6	Cth - DISER
	Incandescent & Halogen phase-out & LED Lamp MEPS • <i>Drafting, consultation and approval of determinations (new for LED MEPS; updated for Halogen and incandescent) will be progressed in 2022.</i>		5	Cth - DISER
	Residential space heating		2	Cth - DISER
	Hot Water Project - Residential water heating • <i>Information and tools for consumers.</i>		2	NZ
	Residential cooking equipment (ovens, cooktops, rangehoods) • <i>Regulation Impact Statement 2022.</i>		2	State - NSW
	Industrial Products (pumps, air compressors, industrial boilers) • <i>Cost benefit analysis carried out. Further investigation into these industrial products will be carried out in 2022.</i>		2	Cth - DISER
	Electric motors • <i>Regulation Impact Statement 2022.</i>		2	NZ
	Commercial ice makers • <i>Regulation Impact Statement 2022.</i>		2	State - NSW
	Commercial catering equipment (Dishwashers, Deep fryers, Ovens, Food holding cabinets) • <i>Regulation Impact Statement 2022.</i>		2	State - NSW
	<b>Battery Chargers, External and Uninterruptible Power Supplies, and LED Drivers</b> • <i>Investigate possible alignment with international regulations, i.e. the United States are revising standards for battery chargers, uninterruptible power supplies and wireless chargers.</i> • <i>There is considerable potential for energy savings from battery charging products, external power supplies, uninterruptible power supplies and LED Drivers.</i>		1	Cth - DISER
	<b>Network standby and small network equipment</b> • <i>Investigate possible adoption of European regulations as these devices consume significant power 24 hours per day, even when not required by users.</i>		1	Cth - DISER
	<b>Heat Pump Water Heaters</b> • <i>Investigate potential options to develop MEPS and/or labelling for heat pump water heaters.</i>		1	Cth - DISER
	Facilitation		<b>GEMS Legislative Review</b> • <i>Changes to the GEMS Act may be required to progress the response to the Review of the GEMS Act.</i>	Government considering response
		<b>Omnibus Regulatory Reform Bill</b> • <i>The Regulator Performance Omnibus Bill 2022 includes proposed amendments to the GEMS Act, to streamline administration and reduce burden on business.</i>	Bill introduced	Cth - DISER
<b>Medium term priority (1-3 years)</b>				
Preliminary development and scoping work has commenced / will commence for these work streams in 2021-22  The E3 Program also remains committed to ongoing work as it develops future work plans	Residential, Commercial/ Industrial	<b>Cool rooms</b> • <i>Investigate United States regulations and European Union proposals for cool rooms and potentially the refrigeration compressor / condenser units that supply them.</i> • <i>The energy costs for cool rooms is significant and there is opportunity to potentially reduce those costs.</i>	1	Cth - DISER
		<b>Lighting equipment (including products not yet regulated, plus some existing products)</b> • <i>Investigate developments in lighting equipment regulation in Europe.</i> • <i>Potential energy savings are significant for lighting products not yet regulated and revisions for some products currently regulated, meriting further investigation for Australia and New Zealand.</i>	1	Cth - DISER
		<b>Electric Vehicles (EV) Charging Smartness and Efficiency</b> • <i>Investigate existing regulations overseas for possible options in regulatory and non-regulatory standards for electric vehicle chargers.</i> • <i>New Zealand is currently leading a project to identify electric vehicle charging smartness, which will have the potential for significant energy savings.</i>	2	NZ
		<b>Local regulatory instruments for Demand Response</b> • <i>Investigate alternative options to deliver the November 2019 Australian Energy Ministers decision to require demand response capabilities for smart appliances.</i> • <i>Implementation of the Australian Energy Ministers decision is pending changes to the GEMS Act in light of the GEMS Act review.</i>	1	State - SA
		<b>Energy Rating Label (ERL) information online</b> • <i>With increases in online purchasing, investigate potential benefits of providing ERL information on products online.</i> • <i>ERL information in online environments and advertising media will enable consumers to make more informed decisions.</i>	1	Cth - DISER
	Facilitation	<b>Fans certification scheme</b> • <i>Investigate a possible scheme either regulatory or non-regulatory for the certification of fans.</i> • <i>This is because there are potentially significant energy savings available from the implementation of an energy efficiency scheme for fans.</i>	1	Cth - DISER
		<b>Bulk insulation</b> • <i>Investigate international compliance mechanisms to regulate bulk insulation materials to ensure they are performing as rated, i.e. that their R-value performs as claimed.</i> • <i>Regulation of bulk insulation has the potential to deliver significant energy savings.</i>	1	Cth - DISER
	Building Products	<b>Motor vehicle tyres</b> • <i>Investigate opportunities to leverage the European approach, as there are many products common to both markets.</i> • <i>Motor vehicle tyres represent a significant energy savings opportunity.</i>	1	Cth - DISER
	Other			

<sup>#</sup>Product Development Stage: 1. Preliminary investigation; 2. Discussion document; 3. Consultation RIS; 4. Decision RIS; 5. Ministerial approval; 6. Implementation

Key:	Cth- DISER	New Zealand	State – NSW	State - Vic	State - SA	New products/projects
<b>Total projects</b>	26	3	3	1	1	<b>Current products/projects</b>

## Appendix B: EECA New Zealand-only priority projects

<b>New Zealand-only New/Future Priority Projects</b>			
<b>Category</b>	<b>Product/Project</b>	<b>Product Development Stage*</b>	<b>Lead Agency</b>
Residential/Commercial/Industrial	Hot water technology new MEPS	2	NZ – EECA
Residential/Commercial/Industrial	Demand flexible devices	1	NZ – EECA
Commercial/Industrial	Variable speed drives	1	NZ – EECA
Commercial/Industrial	EC Brushless DC motors	1	NZ – EECA
Commercial/Industrial	Milk Chillers	1	NZ – EECA
Commercial/Industrial	Destratification fans	1	NZ - EECA

\*Product Development Stage: 1: Preliminary investigation; 2. Discussion document; 3. Consultation Regulatory Impact Statement; 4. Decision Regulatory Impact Statement; 5. Approval; 6. Implementation