

19-D-01997 and 19-D-01998

s 9(2)(a)

Dear s 9(2)(a)

Thank you for your two emails of 11 September 2019, which are in the Ministry's system as 19-D-01997 and 19-D-01998, requesting the following under the Official Information Act 1982 (the Act):

19-D-01997 asks:

*"Please provide details of the any and all of the meetings that have been held by the following groups*  
*RSWG Regional Sector water group*  
*Kahu Wai Moari*  
*Technical science group in relation to the essential freshwater reforms*  
*As the relate to the essential freshwater programme and outputs*  
*Included in this is minutes of all meetings - or a link to them*  
*Remuneration paid to each member*  
*Any members who resigned*  
*The attendance records of all members*  
*Any advice to ministers outside of the final reports"*

19-D-01998 asks, with regard to a previous request for information on the Freshwater Leaders Group:

*"I have just reviewed this OIA request and the response given. There are still no minutes on the website and the question regarding resigned and or dismissed. Please ensure that this happens*  
*Due to the fact that the minutes have not been put up I have a further OIA request*  
*Please provide details of what work was provided by each individual member for the amount of remuneration that was provided*  
*Please provide details for the total amount of remuneration paid per person"*

As your requests are both for information about advisory groups we have decided to provide one response that addresses both of them. Please see attached four tables. The information you have requested is in the first three tables, and table four provides a list of thirteen attached documents.

Twelve of the attached documents are released in full. The one exception is the draft document "Regional Sector Meeting 12-3-19 meeting minutes", provided as attached document #3. Item 5 of this document has not been released as it is outside the scope of your request.

As noted in the first three tables, some aspects of your request have been refused under section 18(d) of the Act on the basis that the information requested is or will soon be publically available.

The Ministry for the Environment has received a large number of official information requests for documents related to the current *Action for healthy waterways* consultation.

Those Ministry staff who are most closely familiar with the proposals in the discussion document have recently been busy with public consultation. This has made it challenging to arrange for relevant information to be reviewed for public release.

We apologise for any delay in response at this time.

You have the right to seek an investigation and review by the Office of the Ombudsman of my decision to withhold information relating to this request, in accordance with section 28(3) of the Act. The relevant details can be found on their website at: [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz).

Please note that due to the public interest in our work the Ministry for the Environment publishes responses to requests for official information on our website on our [OIA responses page](#) shortly after the response has been sent.

If you have any queries about this, please feel free to contact our Executive Relations team.

Yours sincerely



**Katherine Meerman**  
Director, Water

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Table one: information for 19-D-01997

	Regional Sector Water Sub-Group	Te Kahui Wai Māori	Science and Technical Advisory Group
Minutes	<p>Two Regional Sector Water Sub-Group Minutes are provided as attached documents #1 and #2 respectively.</p> <p>The draft document "Regional Sector Meeting 12-3-19 meeting minutes" is provided as attached document #3. Item 5 of this document is not released as it is outside the scope of your request.</p> <p>Two Regional Sector Water Sub-Group meetings, on 29 January 2019 and 12 March 2019, did not produce Minutes.</p>	<p>We expect to make all the Minutes of Te Kāhui's meetings publically available on the Ministry's website in the week beginning Monday 21 October 2019, subject to final agreement from Te Kāhui.</p>	<p>STAG Minutes and key documents are publically available on the Ministry's website here: <a href="https://www.mfe.govt.nz/fresh-water/science-and-technical-advisory-group">https://www.mfe.govt.nz/fresh-water/science-and-technical-advisory-group</a></p>
Remuneration paid to each member	<p>Regional Sector Water Sub-Group members do not receive remuneration.</p>	<p>Te Kāhui Wai Māori is classified as a Group 4 Level 1 Board under the Cabinet Fees Framework. Kāhui members are entitled to a daily rate of \$500, and \$1,000 for the Chair, excluding GST and withholding tax. Members were also able to claim payment of the daily rate for work that was undertaken outside of meetings with the prior approval of the Chair, Crown Lead and the Ministry. Some members have not claimed their fees, and others have yet to claim for all the days they attended.</p> <p>The total remuneration that has been claimed and paid to each member as at the time of the request was as follows:</p>	<p>STAG members do not receive remuneration.</p>

		<ul style="list-style-type: none"> <li>• Kingi Smiler (Chair): \$35,000</li> <li>• Dr James Atarira: nil</li> <li>• Riki Ellison: \$30,000</li> <li>• Traci Houpapa: \$3,500</li> <li>• Mahina-a-rangi Baker: \$19,000</li> <li>• Dr Tanira Kingi: \$8,000</li> <li>• Paul Morgan: \$13,902</li> <li>• Millan Ruka: \$24,117.06</li> <li>• Dr Jacinta Ruru: nil</li> <li>• Hon Dover Samuels: \$25,700</li> <li>• Annette Sykes: \$14,139.13</li> </ul>	
<p><b>Any members who resigned</b></p>	<p>No members have resigned from the Regional Sector Water Sub-Group to date.</p>	<p>No members have resigned from Te Kāhui Wai Māori to date.</p>	<p>No members have resigned from STAG to date.</p>
<p><b>The attendance records of all members</b></p>	<p>Attached document #4 "Advisory Group attendance spreadsheet" refers.</p>	<p>Attached document #4 "Advisory Group attendance spreadsheet" refers.</p> <p>The Kāhui held 11 meetings during its first term. In addition, some members attended additional meetings on specific matters as representatives of the wider Kāhui. These included joint advisory group meetings, policy and testing workshops, and Three Waters Review meetings.</p>	<p>Attached document #4 "Advisory Group attendance spreadsheet" refers.</p>
<p><b>Any advice to ministers outside of the final reports</b></p>	<p>Six letters from the Regional Sector Water Sub-Group to ministers are provided in full as attached documents #5-#10. A table that was attached to the letter dated 22 May 2019 is provided as attachment #11.</p>	<p>Table two "Te Kāhui Wai Māori's advice to Ministers related to the Essential Freshwater programme" refers.</p> <p>This advice is publically available, with the exception of two documents which are provided as attachments to this response.</p>	<p>None provided.</p>

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Table two: Te Kāhui Wai Māori's advice to Ministers related to the Essential Freshwater programme

Date	Paper	Publically available on MfE website?
28 Feb 2019	Talking points for meeting with Minister Parker	Yes
29 Mar 2019	Case study on Porotiti Springs	Yes
30 Apr 2019	Response to four MfE briefings	Yes
21 May 2019	Response to briefing concerning Te Mana o te Wai and mandatory Māori measures of freshwater system health in the NPSFM	Yes
23 May 2019	Response to draft allocation discussion document	Yes
10 Jun 2019	Letter to MfE concerning latest developments	Yes
10 Jun 2019	Letter to MfE concerning various proposals – accompanying report by Dr Richard Meade	Yes
21 Jun 2019	Briefing on compulsory Māori values of freshwater health	Yes
21 Jun 2019	Response to draft discussion document	Yes
18 Jul 2019	NPSFM drafting instructions	Yes
2 Aug 2019	Response to MPI's Farm Environment Plan proposal	No, please see attached document #12
12 Aug 2019	Letter to Minister Parker on aspects of the Essential Freshwater package (Te Mana o te Wai, Māori compulsory value, and addressing Māori rights and interests)	No, please see attached document #13
29 Aug 2019	Final Te Mana o te Wai report	Yes
29 Aug 2019	Letter to Minister Parker on aspects of the EF package, and responding to his letter dated 22 August 2019.	Yes

Please note that the above list does not include the Kāhui's advice on other workstreams, such as Three Waters and the comprehensive review of the resource management system, as this is deemed to be outside the scope of your request.

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Table three: information for 19-D-01998

Freshwater Leaders Group	
Minutes	Minutes are publically available on the Ministry for the Environment's website here: <a href="https://www.mfe.govt.nz/fresh-water/freshwater-leaders-group">https://www.mfe.govt.nz/fresh-water/freshwater-leaders-group</a>
Have any members been dismissed or resigned from the group?	One member, Lees Seymour, resigned due to work commitments.
What work was provided by each individual member for the amount of remuneration that was provided	Members of the group were entitled, but not required, to lodge claims for meeting attendance. Fees were paid to each member on the basis of these claims.
Details for the total amount of remuneration paid per person	<p>Under the Cabinet Office Fees Framework the FLG is classified as a Group 4 Level 1 group. The framework specifies that the daily fees range for the chair is \$540 - \$1,150 and for members \$450 - \$865.</p> <p>For FLG the daily fees for the chair is \$1000 and members \$500. All FLG members can also claim for an extra day to prepare for meetings.</p> <p><i>Note that not all FLG members have chosen to claim the honoraria. They have attended meetings, but have not claimed and therefore no fees are recorded against their name. Nor does the amount paid to-date equate to the number of meetings attended, as not all claims have yet been received.</i></p> <p>Details of fees paid to each member are:</p> <p>John Penno (Chair) \$18,000            Professor Nicola Shadbolt \$3450            Alison Dewes \$12,942            Tom Lambie nil            Traci Houpapa nil            Dr Marc Schallenberg \$1,000            Allen Lim \$9,250            Marnie Prickett \$9,500            Gary Taylor \$8,000</p>

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Dr Hugh Logan \$11,500
Mandy Bell \$8,333
Lees Seymour \$500
Corina Jordan nil
Bryce Johnson \$5,500
Graeme Gleeson nil
Stephanie Howard \$7,000

**Table four: released documents**

1. 20190515 Regional Sector Water Sub-Group FINAL Minutes
2. 17.06.19 Regional Sector Water Sub-Group Final Minutes
3. Regional Sector meeting 12-3-19 meeting minutes – *please note Item 5 is not released as it is outside the scope of the request.*
4. Advisory Group Attendance spreadsheet
5. Regional Sector Water Sub-Group letter 1 March
6. Regional Sector Water Sub-Group letter 26 April
7. Regional Sector Water Sub-Group letter 4 May
8. Regional Sector Water Sub-Group letter 20 May
9. Regional Sector Water Sub-Group letter 22 May
10. Regional Sector Water Sub-Group letter 26 June
11. Regional Sector Water subgroup feedback on Essential Freshwater Policy Proposals, table dated 26 April and 20 May 2019
12. 20190802 Te Kāhui Wai Māori Response to Discussion Document (FEPS) – 2 August 2019
13. 20190812 Letter to Minister Parker – Essential Freshwater – 12 August 2019

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## Key Points (Topics Discussed and Action Points from the Regional Sector Water Sub-Group (RSWSG) 15 May 2019

12.30pm – 3.30pm, LGNZ

### Attendees:

Cheryl Barnes (Chair); Doug Leeder; Alan Livingston; Iain Maxwell; Vaughan Payne (Co-Chair); Andrew Robb; Jon Roygard; Katherine Trought; Nicola Green; Clare Wooding; Martin Workman; Annabelle Ellis; Katherine Meerman

### Apologies:

Janice Rodenburg; Sam King, Bill Bayfield, Fiona McTavish, Rob Phillips, Mike Scarsbrook.

Item	Description	Key Points (Topics) discussed and Action Points
1	Actions last meeting	<b>Actions:</b> The Terms of Reference for the Regional Sector Water Sub-Group RSWSG was confirmed.
2	RSWSG feedback on Essential Freshwater proposals:	<b>Key Points (Topics) Discussed:</b> <u>NPS / NES Timeframe:</u> <ul style="list-style-type: none"> <li>• Consultation; July / September 2019</li> <li>• Independent Advisory Panel to consider submissions and report their recommendations to Ministers; October 2019</li> <li>• Final decision made by Cabinet; November 2019</li> <li>• Gazetted April 2020</li> </ul> Support Ecosystem Health but concerned about some of the proposals from STAG as likely to be a lot of work for little improvements or benefit.  Implementation is the primary focus for the RSWSG : It is going to be: <ul style="list-style-type: none"> <li>• Implementable</li> </ul>

Item	Description	Key Points (Topics) discussed and Action Points
		<ul style="list-style-type: none"> <li>• Workable</li> <li>• Outcome focused (Return on Investment)</li> </ul> <p><u>Main concerns:</u></p> <ul style="list-style-type: none"> <li>• Capacity and capability to deliver on the package across the system</li> <li>• Science to back up the package</li> <li>• Relationship with IWI, forestry, industry and the community</li> <li>• Concern was raised over the 'testing' of the science and how it relates to the outcomes wanted.</li> </ul> <p><u>Recommendations:</u></p> <ul style="list-style-type: none"> <li>• That the package is aligned with a 'whole of government perspective' eg linking it to the current review of vocational training. The Implementation Plan should pick up this up.</li> </ul> <p><u>Actions:</u></p> <ul style="list-style-type: none"> <li>• Martin to provide the text of the changes to the proposals</li> <li>• RSWSG to advise their feedback on the changes.</li> <li>• RSWSG to rank the proposals as high/medium/low according to the contribution they will make to improving water quality; reflect this in the Table.</li> <li>• RSWSG to provide a letter to Minister Parker advising its position on the new proposals and focusing on implementation. The letter will be attached to the Cabinet paper (due next Thursday 23 May). The updated Table will be included as an Appendix.</li> </ul>

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3	Fair Allocation Policy	<p><b>Key Points (Issues) Discussed:</b> n/a – the document was not discussed at the meeting.</p> <p><b>Actions:</b></p> <ul style="list-style-type: none"> <li>• <b>Iain Maxwell</b> to organise the feedback from the RSWSG and send this back to Martin and Katherine at MfE.</li> </ul>
4	Implementation of the Essential Freshwater Package	<p><b>Key Points (Topics) Discussed:</b></p> <ul style="list-style-type: none"> <li>• Want to have a detailed fully costed implementation plan that covers all sectors and is whole of Government.</li> <li>• This is a different Phase of work– where do ‘we’ find the people with the right skills to do the implementation. Could work with MfE to provide training, courses etc.</li> <li>• The RSWSG is happy to put resources towards helping with the implementation.</li> </ul> <p><u>Recommendations:</u></p> <ul style="list-style-type: none"> <li>• Effort is put into Priority Catchments in the first instance and then a staged approach for the next ones. Note that outcomes will be different depending on the catchment.</li> <li>• Could use the SIGs to help identify catchments</li> <li>• Needs a whole of Government approach to implementation</li> </ul> <p><u>Main concerns:</u></p> <ul style="list-style-type: none"> <li>• Communications are key to the implementation being a success.</li> <li>• IT systems will need to be upgraded to support implementation – the cost of this will be substantial for all parties.</li> <li>• Alignment with national Science funding is needed to support the freshwater reform package</li> </ul>

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		<p><b>Actions:</b></p> <ul style="list-style-type: none"><li>• <b>The RSWG</b> wants to co-design the Implementation Plan. (Discussion at the next meeting)</li><li>• A small working group will be formed. <b>Annabelle</b> and <b>Iain</b> to organise.</li><li>• <b>Isaac</b> will present the ARC map to this small working group.</li></ul>
5	Next Meeting	<ul style="list-style-type: none"><li>• The next meeting will be after 19 June 2019.</li><li>• The Working Group on the At Risk Catchment Maps to meet before the next meeting of the RSWG</li><li>• Agenda topics to include the beginning of the Implementation Plan and how the RSWG and MfE work together.</li></ul> <p><b>Actions:</b></p> <ul style="list-style-type: none"><li>• <b>Annabelle</b> to organise the next meeting after 19 June 2019.</li></ul>

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## Key Points (Topics Discussed and Action Points from the Regional Sector Water Sub-Group (RSWSG) 17 June 2019

12.30pm – 3.30pm, Simpson Grierson Boardroom, Level 24, HSBC Tower, 195 Lambton Quay, Wellington 6011

**Attendees:** Clare Wooding, Alan Livingston, Andrew Robb, Katherine Trought, Doug Leeder, Ian Maxwell, James Palmer, Pat Dougherty, Rob Phillips, Vaughan Payne (Co-Chair), Mary-Anne Macleod, Christina Robb, Adrienne Larsen, Annabelle Ellis, Martin Workman

### Apologies:

Cheryl Barnes (Co-Chair), Fiona McTavish, Katherine Meerman, Jon Roygard, Mike Scarsbrook

Item	Description	Key Points (Topics) discussed and Action Points
1	Welcome & apologies and Re-Cap	<p><b>Key Points (Topics) Discussed:</b></p> <p><u>Recap:</u></p> <ul style="list-style-type: none"> <li>• Formation of Essential Freshwater Integration Working Group.</li> <li>• Officials preparing their own advice to Ministers; this will go to groups 25 June. Advice goes to Ministers 27 June.</li> <li>• High level advice from group due to MfE by 26 June.</li> </ul>
2	<b>Actions:</b> – Key Actions from last meeting:	<p><b>Key Points (Topics) Discussed:</b></p> <p>Actions from 15 May 2019 meeting were taken as read.</p> <p><u>Outstanding Actions:</u></p> <ul style="list-style-type: none"> <li>• <b>Action 5</b> - RSWSG feedback on the Fair Allocation Policy document distributed for the meeting has been delayed, underway/pending Iain Maxwell's availability.</li> <li>• <b>Action 7 &amp; Action 8</b> - A small working group will be formed to go over the At-Risk Catchments work prior to the next meeting (Action 7) and Isaac from MfE presenting the ARC map to the small working group (Action 8).</li> </ul>

Item	Description	Key Points (Topics) discussed and Action Points
		<p><b>At-Risk Catchments Review :</b></p> <ul style="list-style-type: none"> <li>• 3 exemplar catchments, \$12 million new budget funding. Additional exemplars catchments to be identified prior to end of December, will be ongoing over next few years.</li> <li>• Addressing wider at-risk catchments through RMA plan processes.</li> <li>• MPI farm plans being linked to at-risk catchments.</li> </ul> <p><b>Points raised:</b></p> <ul style="list-style-type: none"> <li>• Needs to include helping communities with catchments.</li> <li>• Possible confusion between At-Risk Catchment work and Freshwater Policy work.</li> <li>• Timeline expectations from Ministers re: catchments. Working at speed, learning as we go. Much more going on: e.g. DOC/Living Waters, Regional Council work.</li> </ul> <p><b>Recommendations:</b></p> <ul style="list-style-type: none"> <li>• Work to be done on best way to prioritise catchments.</li> <li>• Council PIPs need to link to ARC priority catchments. Regulatory and non-regulatory methods to address at-risk catchments.</li> </ul> <p><b>Actions:</b></p> <ul style="list-style-type: none"> <li>• Isaac and Ton to work with RMG (Iain and Jon) on prioritising catchments.</li> </ul>
3	<p><b>Discussion:</b></p> <p><u>Essential Freshwater Proposals</u></p> <ol style="list-style-type: none"> <li>1. Latest proposals and feedback on Regional Sector's positions.</li> <li>2. Three Waters Review proposals that impact Essential Freshwater – national discharge std for WWTPs.</li> </ol>	<p><b>Key Points (Topics) Discussed:</b></p> <p><u>Essential Freshwater Proposals:</u></p> <ul style="list-style-type: none"> <li>• Freshwater modules of farm environment plans rolled out first.</li> <li>• Councils retain their ability to enforce plans.</li> <li>• N cap proposal is being worked through the Integration Group.</li> <li>• \$43 million invested over next four years into improving Overseer.</li> <li>• Overseer will be used as a benchmark of performance and a tool to reduce leaching from the worst polluters.</li> </ul>

Item	Description	Key Points (Topics) discussed and Action Points
	<p>3. Government's work on impact analysis – Regulatory Impact Statement and s 32 evaluation.</p>	<ul style="list-style-type: none"> <li>• Draft Science and Technical Advisory Group (STAG) report received this morning (17/6). N-attribute work still ongoing.</li> <li>• Freshwater Leaders Group (FLG) and Kāhui Wai Māori (KWM) advocating more stringent standards.</li> <li>• Existing regulatory plans will still hold provided they are more stringent than reforms.</li> <li>• 3 Waters (wastewater, storm water, drinking water) has been consulted at a high level – no new proposed or actual standards until next year.               <ul style="list-style-type: none"> <li>○ Out for consultation August/September 2019</li> <li>○ National Environmental Standard developed 2020</li> </ul> </li> </ul> <p><u>Points raised:</u></p> <ul style="list-style-type: none"> <li>• Councils' ability to access data.</li> <li>• Will there be industry requirements to comply with environmental standards? How do you set industry requirements under the RMA?</li> <li>• Managing allocations – how are consents adjusted into this? What do you need to provide for water takes?</li> <li>• Freshwater impacts on regions economically, protecting communities and enabling them to adapt to the changes.</li> <li>• Implications of making mahinga kai a compulsory value and the effects compulsory Māori values will have on Councils implementing the NPS.</li> </ul> <p><u>Recommendations:</u></p> <ul style="list-style-type: none"> <li>• Resourcing Councils appropriately to implement changes.</li> <li>• Improving Overseer/providing increasingly accurate data.</li> <li>• Assess economic impact of freshwater package on regions – do an analysis and model the impacts.</li> <li>• Consider buying out highest Nitrogen leaching risk areas.</li> <li>• Consider all point sources of discharge for 3 Waters (factories, etc.).</li> </ul> <p><b>Actions:</b></p>

Item	Description	Key Points (Topics) discussed and Action Points
		<ul style="list-style-type: none"> <li>• RSWSG to investigate existing economic models and impact analysis of freshwater reforms on regions and share with MfE (if applicable).</li> </ul>
4	<p><b>Discussion:</b></p> <p><u>Implementation</u></p> <ol style="list-style-type: none"> <li>1. Crown Implementation Plan.</li> <li>2. Regional Sector Implementation Plan.</li> <li>3. Setting priorities – roll out options for catchments and ground truth modelling for N.</li> <li>4. Agreement on how RSWSG and MfE will work together on implementation.</li> </ol>	<p><b>Key Points (Topics) Discussed:</b></p> <p><u>Implementation:</u></p> <ul style="list-style-type: none"> <li>• This is a New Zealand challenge; not just a Regional Council challenge.</li> <li>• Where invest Budget is still in the design phase – working on getting the numbers of farm plans that can be done (hence 2030 deadline).</li> <li>• Potential iwi and vocational opportunity (example: compliance staff, aerial surveillance, etc.).</li> <li>• NGO's questioning of farm environment plans (plan is done by a certified person and later audited).</li> <li>• Vegetables – currently considering two proposals: a nitrogen cap and possible fertilizer cap (fertilizer cap lies with grower). MfE's vision of freshwater system mapped out to 2025.</li> <li>• Want to partner with officials to write an NES that cuts through local planning process but allows community input when it doesn't make sense nationally.</li> </ul> <p><u>Points raised:</u></p> <ul style="list-style-type: none"> <li>• Where is the support (staff, funding) for implementation coming from?</li> <li>• Where's the partnership between local and national government? Who does follow-up engagement?</li> <li>• Capacity and capability of New Zealand (iwi, primary sector, Regional Councils) to meet targets and effectively implement change.</li> <li>• Are we training professionals (ideally existing professionals) to do this work (farm plans, engagement, etc.)?</li> <li>• Potential Regional Council, Farm Plan, and especially labour staffing shortages and constraints.</li> </ul>

Item	Description	Key Points (Topics) discussed and Action Points
		<ul style="list-style-type: none"> <li>Funding for implementation and perception around this (how do we protect regional communities and enable them to make the necessary changes?).</li> </ul> <p><u>Recommendations:</u></p> <ul style="list-style-type: none"> <li>Implementation should reference other parties not just MfE and the Regional Sector (example: MPI, MoE, Industry).</li> <li>Bring in education, tertiary institutions, science, and national science funding. Identify ways to join up with these (and other) sectors.</li> <li>Consider using MPI model of farmers mentoring other farmers on best practices, get farmers who have gone through this before helping other farmers.</li> <li>Involve MPI in data management.</li> </ul> <p><u>Actions:</u></p> <ul style="list-style-type: none"> <li>MfE to provide a scoping document paper detailing the Crown’s view on implementation.</li> <li>RSWSG to provide a scoping document paper detailing the Regional Sector’s view on implementation.</li> </ul>
5	<p><b>Discussion:</b></p> <ol style="list-style-type: none"> <li>Nitrogen Attributes.</li> </ol>	<p><b>Key Points (Topics) Discussed:</b></p> <p><u>Nitrogen Attributes</u></p> <ul style="list-style-type: none"> <li>Presentation from Irene and Isaac at MfE on the impacts of NOF periphyton and toxicity bottom lines.</li> <li>Getting sediment data is difficult.</li> <li>MfE supportive of Councils that have existing plans in place and allowing them to continue with those plans if they meet with new requirements).</li> </ul> <p><u>Main concerns:</u></p> <ul style="list-style-type: none"> <li>What if a Council isn’t performing and targets are not being met?</li> </ul> <p><u>Recommendations:</u></p>

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Item	Description	Key Points (Topics) discussed and Action Points
		<ul style="list-style-type: none"><li>• Don't include regions with rules already in place (example: Canterbury, Otago, Waikato, etc.)</li></ul> <p><b>Actions:</b></p> <ul style="list-style-type: none"><li>• Irene to contact Regional Councils for data and to ground truth model.</li></ul>

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## Regional Sector Meeting – Tuesday 12<sup>th</sup> March

In Attendance: Martin Workman, Roger Bannister, Cheryl Barnes, Clare Wooding, Fiona McTavish, Doug Leeder, Iain Maxwell (Skype), James Palmer (Skype), Pat Dougherty, Vaughan Payne

Cheryl opens meeting. Recap of 1<sup>st</sup> meeting. Revised TOR.

- Discussed role of group. Secondees and taskforce outline. Tight timeframes. Group to make sure issues discussed by other groups are with Regional sector as well.
- Questioned raised about MPIs involvement/why not here at Regional Sector meeting. This was clarified: Taskforce is still joint with MPI but is MfE lead.

### 1. Item 1 – Working together

- Recap on Doug's letter sent to Minister.
- Narrow RMA coming into the house but doesn't address Plan agility. MfE addresses the complex issue, and questioned how we can work together.
- Urban limit boundaries – could be simple straight forward change, moving a line makes it easy. Total time to implement 6-9 months. Example Hawkes bay – looking at it plan change 6, by moving the dates out. How things are set up is a fundamental part of making it work. Won't get full change within 3 years, 2-3 mill on exercise. Can't happen without being region wide. Hard to implement, concern raised about blame put on regional councils which is why things are the way they are.
- A change to legislation, might be in next round of RMA reform, which would help address that.
- Minister keen to speed up planning process, sympathetic to regional councils.
- Regional Sector raised concerns that changes national level needed. Regional council have an extensive process but held up by lots of contestability at environment court. Minister has the ability to cut through that and apply national powers. Process needs to be clear and process tested on regional level to give minister confidence to cut through.
- Regional plans to get interim limits in place but getting resistance when going catchment by catchment. An interim limit would help the process but and rights and litigation fall onto councils. Section 32 on NES, local level is more specific. Heavy evidential burden. Use of NES can it be directed. If we know 10 year plan, interim limit would help.
- MfE - the push is to have interim limits set, doing this centrally is difficult. There is a lot of tension in play on speeding up limit setting and doing it quickly. Minister thinking about time given to regional councils to implement. Important to discuss this. PIP – some time frames beyond 2025. An initial report of the PIP has been done and will be shared once it has been tied up.
- Regional Sector noted that there are two pieces of work. Problem definition/ sharing of case studies, inviting region councils to share timeframe and cost to use current process we have so minister can see challenging it is. Hard evidence of the problem and then exploring solutions.
- Think about criteria, and minister would have own criteria to apply things at national level. NPS FM would have more power, and regional council could put in place interim levels, or default limits. And then work on a catchment levels. Treaty settlements pose a risk/block. National bottom lines may provide a triage around the catchments where a faster track around setting limits could be a potential quick fix. Fast track in 9 months but litigation puts a stop to it.

- MfE noted the Minister has the power to bypass potential blocks and take things straight to environment court.
- Regional Sector questioned if the Minister would be happy with the NES/NPS going through environment court. There is an expectation that things will be fixed tomorrow.
- MfE -fundamental shift and getting push from Maori about their participation role and won't be a quick change. There is strong support from other stakeholders.
- What about in the short term, useful for this group to come up with advice for minister, what are the problems/solutions. Is there capacity for this to be picked up (by the taskforce).
- Regional Sector noted that Regional Councils are at the forefront and it is important to take them with us. There is risk of leaving them behind and concern around how the package would land with councils. Without firm proposals it is hard to know what councils will think.
- Noting there has been no reaction from the Minister about Doug Leeders letter.

#### **ACTION**

- pull together Timesframes for pulling together nps and how councils can implement – regional council secondees will assist with this.
- PIP report to be shared once tidied up
- Clare to follow up with Ministers office about a meeting (regarding the letter)

#### **2. Item 2 – Nutrients, Outcome of STAG meeting (officials: Jo Burton, Jen Price, Nik Adric). (Slideshow attached)**

- Feedback from STAG – context management of nutrients brought up by stag and flg something they want to look at. Nutrient levels need to be set for periphyton.
- Macrophyte attribute needed for soft-bottomed rivers/catchments
- Subgroup of STAG to give stress test of Russell deaths info
- Regional Sector noted the need to strengthen Eco system health. Need to strengthen Ecosystem health in current NPS .
- Macrophytes and soft bottom low land streams attributes should be taken into account and manage options linked to Ecosystem health.
- STAG discussed nitrate toxicity. Regional Sector raised concern about the misconception on that nitrate toxicity kills everything in a catchment.
- Noted officials need to think about triage and what would be more helpful, is sediment being progressed. Everything that goes out needs to be robust. There is a strong desire from the groups for this to go to consultation.

#### **Discussion on Dissolved oxygen**

- Regional Sector- In Waikato there are 2 permanent loggers and some that are moved around, during flooding a high level of organic material is pushed into low land systems and effects are still not being fully understood. There is a lack of understanding. A natural process exacerbated by a flood schemes. Flood management is an active science question.
- Flood schemes protect communities and infrastructure but cause black water events, can't just pull the flood scheme out without offsetting mitigation framework in place.

- Suggestion around dealing with existing infrastructure mitigation could be: large scale wetland creations will create fish spawning habitat
- Officials noted a sub group of STAG including independent advisors would be going over data/info
- Officials noted that some members of STAG concerned that numbers of phosphorus was too low (limits set too low) there is a desire that the line should be tougher.
- Noted Map were produced by Ton Snelder which are based on land use monitoring points and have been extrapolated to around the country. Important – more attributes, more bottom lines. There is a need to set the direction of travel. Strong desire from advisory groups to get this on the table.

#### **ACTION**

Officials pass on comments to STAG ,

Officials will report back to Regional Sector where small team will get to by mid April will.

Request to regional councils to feed any info back into officials.

#### **BREAK**

### **3. Item 3 - Te Mana o Te Wai (Official: Alice Jacobs)**

Recap of discussion with KWM, embed Te Mana into freshwater and nps.

Different concepts – involving communities. Water is its own entity. There is no clear connection between those in NPS at the moment. Te Mana needs to be high level concept. In NPS clarifying what's needed.

- Strategy into the river. Putting river first. Issues raised are diversity of values that extent to their own land, differences between iwi groups and Maori land owner's tension needs to be resolved first. A Step beyond even could be needed in-between iwi.
- Officials questioned if clarification in NPS help with that?
- Regional sector noted general framework is good but open to interpretation. Differences in Maori/iwi, hard in general to get people to understand. Any clarity would be good, regional and sub regional differences. Clarification on how you weigh competing values. Down to Iwi/how and when down to local processes. What are the unintended consequences? What does Te Mana mean to others?
- Could be something for KWM have discussed.
- Officials mentioned its about finding a balance that we are still working out.
- Rather than definition, prescription about process not about what it is. Should be a mirror image on the NPS, NPS underscores quantifying what Te Mana and Maori o te wai. Regulatory frame work is modified in terms of the engagement, not parallel.
- Officials noted that that is one of the options to align with Te Mana and NOF.
- Having just one framework and having engagement definitional step within that. Extremely difficult. Practical limitations. Approach is about setting outcomes, not an attribute, outcome based. Getting alignment. Outcomes rather than management system/attributes table.
- Officials confirm that these issues have been raised

- Te Mana is an important process check in the development of the process. Next steps develop options with KWM, then to minister and then consultation. Consider KWM giving effect to rather than consideration. Need to consider words used.
- Note useful to bring things back to regional sector as check in point.

#### 4. Item 4 Provision for the Primary Sector – Irene

(Slides attached)

- Definitions of FEPs are key:  
proposed that it should include nutrient budget  
must sit alongside Overseer budget or will be hard to enforce
- Assurance of Overseer is an issue – it needs to be couple with best practice in order to improve confidence
- Not all agreed that FEPs needed to require nitrogen budget. Alternative/bespoke methods may need to be considered for other contaminants (P, E.coli, sediment)  
Eg, in Tukituki, N wasn't an issue but requirement ended up sinking unnecessary resources into N  
EG, plan change 10 – found that there is a level where Overseer not needed  
Consideration of Fonterra style N score card
- Note: Fonterra have offered to gift MfE their FEP template
- Sediment is the main issue in some areas, resulting from inappropriate land use. FEPs may not capture this.
- Note that capturing the key information about land use, including trends over time, is key for RM agencies when doing catchment accounting – FEPs can play a role in this. Even if N isn't a problem, provides opportunity to capture information.

#### Prioritisation of roll out

- Agreement that Dairy should be prioritised first. The industry are already way ahead in terms of an FEP approach and there is an opportunity for quick wins for water by targeting them first.
- Don't consider targeting Dairy to be problematic, as they are often highest dischargers.
- Indicated that in recent discussions with Fonterra, they have been receptive in partnering with the regional sector.
- Proposed that partnering with processors (eg, Fonterra) is key to making FEP approach work (eg, processors require suppliers to have FEPs). Discussion that intensification in the early 2000s was somewhat driven by processor requirements, therefore they could have an effective role in requiring FEPs.  
This would provide some solution to regional council resourcing for FEPs, as 1:1 interaction with individual farmers will require investment.  
Solution could be that processors write/require FEPs BUT regional councils maintain enforcement/auditing role. RC involvement needed to ensure credibility of the scheme.  
Current problem is that where processors are requiring FEPS, regional councils aren't receiving information. Linking their roles in FEPs could solve this.
- Compliance could also be made a responsibility of processors (note from Irene that this would require a new DIRA-style Act).  
This has been done before through quality attributes/ food safety

- Other sectors are not as advanced in FEPs as dairy (eg dry stock and veggies), so the reality is that getting them on board will take longer. This could be done through encouragement/support from CG (eg, B+L plan for FEPs by 2020). Want to make sure that other sectors don't fly under the radar.
- Some support from Hawke's Bay rep that roll-out is based on environment impact – pressure needs to be applied regardless of industry.
- Nitrogen cap/risk assessment could be used for a 2-tier phased approach to roll out (eg, differing FEP requirements based on risk assessment).  
Question over regional council role in this?  
Regional council did have some experience in this when prioritising rivers – suggestion that a similar approach could be applied
- Note that there has been a huge shift in attitudes in recent years – some areas there are voluntary initiatives taking over faster than rules are put in place. People want to 'own their destiny'
- Consensus that timeframes should be shorter (although agree that prioritisation is needed due to capability and capacity issues).

### Architecture to support FEPs

- Note that we shouldn't underestimate the scale of the architecture needed to support FEPs. This will need strong central government leadership. Includes consideration of capacity and capability issues (including whether Universities can provide training)

### High Risk Land-Use activities

- Little substantive discussion over proposal (positive...?)
- Note that hill country cropping is actually better in terms of environmental effects in the cultivation phase. Also economic benefits are considerable.
- FEPs should be a key requirement for conditions for hill country cropping/intensive winter grazing. Would allow factors such as climate conditions to be picked up (as they can't be regulated at national scale)
- Need to consider whether regulation of HRLUAs will have an effect at the regional scale on total carrying capacity of stock (eg, Southland and Central Otago – stock moved around a lot. Will regulations end up reducing the amount of land available for them). A consent requirement could incentivise different land use, and so could result in decreased stocking (not necessarily a perverse incentive – could be positive for achieving our goals).
- Need to consider whole systems and perverse incentives.

### Intensification

- Supported proposal for interim measure
- Had questions around what happens if council rules are more or less stringent than the requirements?
- Conversation around whether N is the best indicator of intensification. Largely agreed that N increases is linked to intensification. Acknowledgement that it is a measurable outcome.
  - Healthy Rivers rules covered N, P, E.coli and sediment in their intensification rules.
  - Noted that a number of methods could be used to measure increases in these other attributes
- Noted that it will make crop rotation for vegetable growers more difficult.
- Acknowledgement that these are really tricky problems.

- Note that NZ is geographically young and we are 'lacking in certain elements'. Limiting inputs can result in produce that is unsalable (UK example used).
- Some conversation around N trading schemes:
  - Can result in people playing the system
  - In the Murray Darling Basin (Aus), people had to choose between becoming self-sufficient or reliant on 3<sup>rd</sup> parties. Same risks here.
- Note that while some regions are putting rules in place, intensification needs to be a central government issue as it has become very political (eg, concerns around veggie growing/food security)


#### Stock exclusion

- One member has strong opinion that sheep should not be excluded from regulations. Has photographic evidence that sheep do actually go into water. This was not supported by others.
- Concern over 5m setback – questioned where this number had come from.
- Note that the setback will be inherently linked to the definition of a waterway. For example, it will be hard to enforce setbacks for comprehensive draining systems etc.
- Question over linking 15 degree slope to permitted activity status (Irene explained our rationale for central government being unable to set permitted activity status)
- Question over whether it can be done faster (Irene noted that timing relates to supply of posts, fences etc.)

#### Nitrogen caps

- Question over what activities would go over 70kgs/ha?
  - Veggies, dairy, possibly intensive bull beef, irrigated agriculture, cropping.
- Note that there will be very significant variability in N, variability within land uses, and variability within regions. This makes having a hard national N cap very difficult
- Need to be targeting the top 25<sup>th</sup> percentile of high risk N losses. (Note that finding out who is in this percentile takes time)
- Fonterra have done some work on the top 25<sup>th</sup> percentile and what it takes to bring them down. Note that it is difficult, especially for irrigated dairy.

Out of Scope



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Out of Scope


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Science and Technical Advisory Group

Meeting Date -> & Meeting Location	18/10/2018	19/10/2018	Overall meeting attendance for 18/10 and 19/10	29/11/2018	24/01/2019	26/02/2019	26/03/2019	16/04/2019	1/05/2019	13/06/2019	24/06/2019	5/06/2019 Joint Advisory Group Hui
<b>Name</b>	Terrace Conference	MfE	Terrace Conference & MfE	MfE	MfE	MfE	MfE	Terrace Conference	MfE	MfE	Terrace Conference	James Cook Hotel Grand Chancellor
Dr Joanne Clapcott	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	No	Yes	No
Professor Ian Hawes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes	No	No
Dr Clive Howard-Williams	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Dr Jenny Webster-Brown	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	No
Ken Taylor (Chair)	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	No
Dr Bev Clarkson	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	No
Dr Bryce Cooper	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Graham Sevicke-Jones	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
Dr Jon Roygard	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	No
Professor Russell Death	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes	No	Yes
Dr Adam Canning	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Dr Marc Schallenberg	Yes	Yes	Yes	Yes	No	Yes	No	Yes	Yes	Yes	Yes	No
Dr Chris Daughney	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	No	Yes	No
Dr Mike Joy	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
Rawiri Smith	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	No	Yes
Dr Daniel Hikuroa	No	No	No	No	No	Yes	No	No	Yes	No	No	Yes
Dr James Ataria	N/A	N/A	N/A	No	No	No	No	No	No	No	No	No
Mahina-a-rangi Baker	N/A	N/A	N/A	Yes	No	Yes	No	No	No	No	No	No
Dr Tanira Kingi	N/A	N/A	N/A	Yes	No	No	No	No	No	No	No	No

Key

 = 2 Day Meeting

 Overall 2-day meeting attendance

 = All Advisory Group Meeting

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Science and Technical Advis

Meeting Date ->  
& Meeting Location

Name	Total Number of Meetings Attended (Includes 5 June Joint Advisory Group Hui)
Dr Joanne Clapcott	7
Professor Ian Hawes	6
Dr Clive Howard-Williams	10
Dr Jenny Webster-Brown	8
Ken Taylor (Chair)	8
Dr Bev Clarkson	8
Dr Bryce Cooper	10
Graham Sevicke-Jones	9
Dr Jon Roygard	8
Professor Russell Death	7
Dr Adam Canning	9
Dr Marc Schallenberg	7
Dr Chris Daughney	7
Dr Mike Joy	9
Rawiri Smith	8
Dr Daniel Hikuroa	3
Dr James Ataria	0
Mahina-a-rangi Baker	2
Dr Tanira Kingi	1

Key


■	= 2 C
■	= All


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**KAHUI WAI MĀORI Attendace**

Meeting Date -> & Meeting Location	1/11/2018	2/11/2018	Overall meeting attendance for 1/11 and 2/11	19/11/2018	20/11/2018	Overall meeting attendance for 19/11 and 20/11	6/12/2018	7/12/2018 Joint Advisory Group Meeting	Overall meeting attendance for 6/12 and 7/12	29/01/2019	30/01/2019 (Joint Advisory Group Session)	Overall meeting attendance for 29/1 and 30/1
Name	MfE	MfE	MfE	Front & Centre	Thistle Inn	Front & Centre and Thistle Inn	Terrace Conference Centre	MfE	Terrace Conference Centre and MfE	Thistle Inn	MfE	Thistle Inn and MfE
Kingi Smiler (Chair)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Dr James Ataria	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	No	No	No
Riki Ellison	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	No	Yes	Yes
Traci Houpapa	No	No	No	No	Yes	Yes	Yes	Yes	Yes	No	No	No
Mahina-a-rangi Baker	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Dr Tanira Kingi	Yes	Yes	Yes	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes
Paul Morgan	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
Millan Ruka	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
Dr Jacinta Ruru	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
Hon Dover Samuels	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Annette Sykes	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Tā Wira Gardiner	Yes	Yes	Yes	Yes	Yes	Yes	Yes		Yes			

Key

 = 2 Day Meeting

 Overall 2-day meeting attendance

 = All Advisory Group Meeting

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**KAHUI WAI MĀORI Attenda**

Meeting Date -> & Meeting Location	27/02/2019	28/02/2019	Overall meeting attendance for 27/2 and 28/2	19/03/2019	20/03/2019	Overall meeting attendance for 19/3 and 20/3	1/04/2019	2/04/2019	Overall meeting attendance for 1/4 and 2/4	29/04/2019	30/04/2019	Overall meeting attendance for 29/4 and 30/4
Name	Terrace Conference	Terrace Conference	Terrace Conference	Terrace Conference	Terrace Conference	Terrace Conference	Terrace Conference	Terrace Conference	Terrace Conference	Terrace Conference	Terrace Conference	Terrace Conference
Kingi Smiler (Chair)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
Dr James Ataria	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
Riki Ellison	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
Traci Houpapa	Yes	Yes	Yes	No	No	No	No	No	No	No	No	No
Mahina-a-rangi Baker	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Dr Tanira Kingi	Yes	Yes	Yes	No	No	No	Yes	Yes	Yes	Yes	No	Yes
Paul Morgan	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
Millan Ruka	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Dr Jacinta Ruru	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Hon Dover Samuels	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Annette Sykes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Tā Wira Gardiner												



Key

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KAHUI WAI MĀORI Attenda

Meeting Date -> & Meeting Location	28/05/2019	25/06/2019	6/08/2019	5/06/2019 Joint Advisory Group Hui	
Name	Terrace Conference	Terrace Conference	Terrace Conference	James Cook Hotel Grand Chancellor	Total Number of Meetings Attended (Includes 5 June Joint Advisory Group Hui)
Kingi Smiler (Chair)	Yes	Yes	Yes	No	11
Dr James Ataria	Yes	Yes	No	No	8
Riki Ellison	Yes	Yes	Yes	Yes	12
Traci Houpapa	No	No	Yes	No	4
Mahina-a-rangi Baker	Yes	Yes	Yes	No	11
Dr Tanira Kingi	Yes	No	Yes	No	8
Paul Morgan	Yes	No	No	Yes	9
Millan Ruka	No	Yes	No	Yes	10
Dr Jacinta Ruru	Yes	Yes	No	No	10
Hon Dover Samuels	No	Yes	Yes	No	10
Annette Sykes	No	Yes	No	No	8
Tā Wira Gardiner			Yes		4

Key

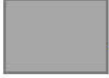
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Regional Sector Water Sub Group

Meeting Date -> & Meeting Location				29/01/2019	12/03/2019	12/04/2019	15/05/2019	17/06/2019	25/06/2019	5/6/19 Joint Advisory Group Hui	Total Number of Meetings Attended
Name				No record of attendees	No record of attendees	MfE	LGZ	Simpson Grierson Boardroom	Thistle Inn (Closed door session - no officials present)	James Cook Hotel Grand Chancellor	
Alan Livingston						No	Yes	Yes	Yes	No	3
Andrew Robb						No	Yes	Yes	No	No	2
Bill Bayfield						No	No	No	Yes	No	1
Doug Leeder						Yes	Yes	Yes	Yes	Yes	5
Fiona McTavish						Yes	No	No	Yes	No	2
Iain Maxwell						Yes	Yes	Yes	Yes	No	4
James Palmer						Yes	No	Yes	No	No	2
Jon Roygard						No	Yes	No	Yes	No	2
Mike Scarsbrook						No	No	No	Yes	Yes	2
Pat Dougherty						Yes	No	Yes	No	No	2
Rob Phillips						No	No	Yes	Yes	No	2
Vaughan Payne (Co-Chair)						Yes	Yes	Yes	Yes	No	4
Clare Wooding						Yes	Yes	Yes	Yes	Yes	5
Cheryl Barnes (Co-Chair)						Yes	Yes	No	No	Yes	3
Martin Workman (In Attendance)						Yes	Yes	Yes	No	Yes	4
Katherine Meerman (In Attendance)						No	Yes	No	No	Yes	2
Annabelle Ellis (In Attendance)						No	Yes	Yes	No	No	2
Adrienne Larsen (In Attendance)						N/A	N/A	Yes	No	Yes	2
Roger Bannister (In Attendance)						Yes	N/A	N/A	N/A	N/A	1

Key

 = 2 Day Meeting

 = One day meeting attendance

 = All Advisory Group Meeting

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1 March 2019

Hon David Parker  
Minister for the Environment  
Private Bag 18888  
Parliament Buildings  
Wellington 6160

Who's  
putting local  
issues on  
the national  
agenda?

**We are.**  
**LGNZ.**  
Te Kāhui Kaunihera o Aotearoa.

Dear Minister,

### Essential Freshwater Workstreams – Regional Sector response

The Essential Freshwater (EFW) work programme comprises six workstreams that, within defined timelines, constitute a very ambitious work programme. The Regional Sector is pleased to be working on the Essential Freshwater Programme with the Government, through both the Regional Sector sub-group, the Science Technical Advisory Group and also directly via staff secondments to MfE. This requires significant resource from the Regional Sector, but I am happy that the Sector is supporting the Government's work programme directly in this way.

We acknowledge that all parties need to operate at more than just a business as usual level to deliver the expectations for improved water quality. Our letter to you on 4 May 2018 identified the key issues that we consider are critical to address to make improvements to water quality. We have considered these priorities from a Regional Sector perspective, alongside the work programme for Essential Freshwater and offer some commentary below. **We have prioritised the initiatives that we consider will make the biggest difference quickly** to assist the Government with its aim of holding the line and establishing a framework for water quality improvements.

The EFW work programme identifies 13 primary areas of work; of these, the sector has identified eight priority areas that we consider should be worked on to assist the Minister's desire for impact. We acknowledge the overarching theme of maintaining and improving water quality and offer that there may be some hierarchy in the work areas, with some aspects of the work programme being the tools to deliver on desired water quality outcomes. One consideration for all of the work is the timeframes for implementation of any changes to water quality management. Holding the line in the short term will likely require a mix of both regulatory and non-regulatory interventions and we support the "at risk catchments" approach, alongside the more regulatory focussed aspects of the programme.

Our eight priority areas are:

- **Improving farm practice and managing intensification of rural land use**  
EFW proposes a requirement for an audited farm environment plan (FEP) for every farm, prioritised based on risk. EFW also proposes a constraint on intensification in catchments at risk.

We agree that greater status should be given to catchment/sub-catchment farm environment plans (FEPs) and their use should be mandatory. The Good Farming Practice governance group (central government, industry, regional sector representatives) has continued to explore opportunities to enhance roll out of farm environment plans (FEPs) in priority areas.

We support the rural sector's commitment to FEPs and we would like to see central government policy support for these. The Regional Sector's technical representatives on the Good Farming Practice workstream have offered to help central government should they wish to pursue policy options. The Regional Sector also encourages you to consider a requirement that FEPs are part of the terms and conditions of supply for a given industry/processor. Making FEPs mandatory through industry supply agreements will be more efficient and effective than using RMA instruments (eg resource consents).

In the first instance we consider the dairy industry sector is closest to being able to implement this because of work they have already undertaken and should be "first cab off the rank."

The Central Plains Water Enhancement Scheme provides a good example of what can be achieved when industry takes a lead role; the environmental outcomes have exceeded expectations and the mechanism is the terms of the supply of irrigation water.

#### FEP certification

Many regional councils provided support (alongside central government and the Rural Sector) to the development of a national system for certifying practitioners developing FEPs for property owners. I am advised that this project has been slightly delayed, but I am happy that progress is being made and that the sector has been fully engaged with developing the certification. To support this initiative, we need to ensure capability is developed to ensure competent professionals are available to assist the development of these plans and to ensure they are fit for purpose. It is important to get all of the components lined up to ensure that FEPs can be delivered.

#### Prioritising catchments

The 'At Risk' catchment approach is supported as a way to identify and prioritise catchments where greater coordination of effort now can either avoid further degradation, or achieve 'quick wins' to build community support for further action. It is important to clearly define the nature of the risks considered when identifying these catchments, because this influences the type of regulatory response that may be appropriate. For example, a national intensification constraint may not be appropriate if the risk is sediment loss rather than nutrients.

#### Intensification

The definition of "intensification" will need to be carefully considered along with the mechanism(s) for increasing control (e.g. moratoria vs strict consenting requirements). The following also requires consideration: capacity and capability for Farm Plan delivery and implementation; integrated/consistent data capture systems and standards; dealing with the RMA loophole created by Certificates of Compliance; and the avoidance of 'gold rushes' resulting from advance warning.

Working with regional councils who have experience in defining “intensification” through their development of regional plans will be useful for officials.

- **Preventing ongoing drainage and degradation of wetlands**  
EFW proposes mechanisms to ensure no further loss of wetlands.

The sector agrees that the loss of wetlands is a significant issue and, in fact, increasing the area of wetlands in agricultural landscapes is perhaps the most potent mitigation tool we have to reduce the environmental impact of agricultural production and contribute positively to ecological values that we have. In our view, there are a number of challenges that need to be addressed in the development of any regulatory tool and ensuring compliance with that tool:

- Defining “wetland”;
- Identifying the wetlands remaining;
- Do landowners know where wetlands are situated?;
- How do we measure drainage of wetlands on individual properties (to an evidential level), but at a regional scale?; and
- Will regulations increase or decrease landowner willingness to invest in wetlands as mitigation tools?

Having deemed wetland protection is a priority issue, resolving these challenges is needed before they can be embedded in regulations. In the meantime, incentives should be increased to protect and restore wetlands through FEPs and other mechanisms.

- **Managing instream sediment**  
EFW proposes that sediment attributes are added to the National Objectives Framework.

This proposal aligns well with the sector’s long involvement in catchment management programmes (e.g erosion control) and the collaboration the sector has with Te Uru Rakau on the One Billion Trees programme. Sediment is widely accepted as a ‘master stressor’ in waterways and is a recognised gap in previous NPS-FM. The sector will need to build capacity around monitoring requirements (e.g. deposited sediment in streams) and the link between in-stream fine sediment and catchment sediment generation as it relates to limit-setting. While there has been good science progress on this, more work is needed.

There are successful sediment management initiatives within the country, such as the Sustainable Land Use Initiative in the Manawatu Whanganui Region; there are likely to be lessons that can be learned from these about how to accelerate erosion control works. Recent Hill Country Erosion Fund announcements and the One Billion Trees initiative will assist. We recommend that policy analysis around sediment considers the land use change that will be required and the timeframes over which that will be required to meet new requirements.

- **Maintain or improve overall water quality**  
EFW proposes the National Objectives Framework is amended to address the current settings that allow water quality to decline.

The concept is supported in principle and there is a need for improved clarity around how communities assess whether water quality is being maintained and improved across a catchment. In progressing this, we need to ensure that values and outcomes remain a focus for communities as opposed to a limited number of water chemistry numbers at a specific site. This also links strongly to the work programme around safeguarding ecosystem health.

- **Safeguarding ecosystem health**

EFW proposes a number of specific policies to protect and restore ecosystem health.

The sector supports this concept and it aligns with outcome-based catchment planning; we are keen to work with officials to develop this as a concept which is able to be measured and reported for decision making. The intent of improving outcomes for habitat quality is supported, particularly for threatened indigenous fish. The sector is working on addressing the environmental challenges associated with flood protection schemes and fish passage and we have some initiatives underway.

- **Providing for renewable electricity under the Freshwater NPS**

EFW proposes to provide for situations where renewable electricity generation conflicts with national bottom lines.

We believe the best approach is to provide for and formalise the concept of offset mitigation (rather than exceptions) for nationally or regionally significant infrastructure where assessment shows that national bottom lines cannot practicably be met. This would align with outcome based catchment planning. We support an approach that provides for other nationally significant infrastructure (e.g. flood protection schemes). There are many instances where existing public infrastructure creates adverse environmental effects that cannot be avoided or mitigated, and removal of the infrastructure is not an option. By way of example, the levels of dissolved oxygen associated with flood control infrastructure, in some cases, cannot be remedied and the effect on aquatic species is well understood.

In these instances, and like renewable electricity, offset mitigation may be the only practicable option.

- **Urban policy responses**

EFW proposes to clarify how the NPS applies to urban catchments.

We support an approach that aligns with integrated catchment planning and ensuring that the various policy mechanisms are supporting common objectives. Urban policy requires integrated planning and there are other reviews that need to be considered (e.g. the Three Waters Review). Catchment context is very important when considering where Good Management Practice and offset mitigations should be applied for best 'bang for buck'.

- **Sustainable flows in rivers and water levels in aquifers**

EFW proposes requirements to ensure adequate ecological flows.

The sector considers that the science is well evolved on this matter, as are the policy settings, making this process relatively simple.

- **Te Mana o Te Wai and Maori values for freshwater health**

EFW proposes a number of policies to strengthen the framework for Te Mana o te Wai.

This concept aligns with outcome based integrated catchment planning. Good progress is being made by Essential Freshwater Groups under leadership of Kahui Wai Māori. We want to work with Kahui Wai Māori to maintain momentum. Our communities would benefit from the Crown and Iwi expediently agreeing Iwi rights and interests in water.

The following policy initiatives are considered important but, in our view, require more time before they can be advanced, as outlined below:

- **Dissolved Oxygen in rivers**

EFW proposes amending the attribute for Dissolved Oxygen in the National Objectives Framework.

This is an important water quality parameter, but time is needed to allow resolution of the significant challenges around the continuous monitoring of dissolved oxygen at regional scales. Attention is needed to increase our knowledge base generally for managing dissolved oxygen in different waterbody types (e.g. large lowland rivers). There are significant gaps in our understanding of dissolved oxygen patterns in some waterway types and major challenges in how we might restore highly-modified waterways.

- **Copper and zinc**

EFW proposes amendments to the National Objectives Framework to cover copper and zinc.

We agree this is important and we support regulation done centrally because local government does not have the appropriate levers. This includes central regulation to remove these at source, including roofs and brake pads. In the longer term the scope for zinc and copper needs to be widened from building and transport to include agriculture and horticulture sources.

- **Sensitive downstream environments**

EFW proposes stronger direction to protect sensitive downstream receiving environments (estuaries).

We support a longer-term project to develop attributes for estuaries.

- **Allocation of nitrogen**

EFW proposes amending the National Objectives Framework to improve how nutrients are managed.

A national regulatory solution needs an enduring and enforceable approach to allocation of Nitrogen. We support development of allocation methodologies that can be applied in appropriate situations, but we also recognise many challenges including the role of OVERSEER (or other models), the information requirements for catchment accounting and benchmarking current practice and the potential social and economic impacts of implementing an allocation framework.

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We have considered the recommendations of the Parliamentary Commissioner for the Environment with regard to Overseer. We agree that Central Government should indicate whether they wish to see Overseer used as a tool in the regulation of water quality and, if so, clearly identify what additional steps are needed to support that use. His recommendations that follow are all necessary to support the use of Overseer as a regulatory tool.

As we recommended in our letter to you on 4 May 2018, a formal model approval process that ensures that models are based on broadly accepted principles and relationships and have been through appropriate development process, would assist regional councils with the allocation of Nitrogen with more confidence.

Beyond this list were the key matters that the Regional Sector, outlined in a letter to you on 4 May 2018. Some of these matters fit within the policy agenda of the EFW programme whilst others are not so obvious.

Of these, the most important matter we consider needs to be addressed is improving plan agility; we need to be able to develop and make operative regional plans in timeframes that respond to the urgency and relevancy of the issues. In order to make progress on improving water quality, using regulatory tools, we need to make changes to our regional plans far more quickly than the current statutory framework requires. In our view, this is urgent.

We also urge coordination with other policy programmes being lead from central government, including the Three Waters Review. Where implementation requires a new national instrument under the RMA, to achieve coherence of national instruments and to facilitate their implementation by local governments, we encourage their development to be under the umbrella of the Essential Freshwater programme.

Overall, we urge the Government to prioritise effort to target where change is needed and can be achieved, taking into account the capacity of the key agencies to respond. Priorities should also be set based on return on investment. We would like to work with you to agree priorities, focused on what can be delivered well.

I would like to meet with you to discuss this letter, with some of my colleagues.

Yours sincerely



Doug Leeder  
Chair, LGNZ Regional Sector

Who's  
putting local  
issues on  
the national  
agenda?

**We are.**  
**LGNZ.**  
Te Kāhui Kaunihera o Aotearoa.

26 April 2019

Hon David Parker  
Minister for the Environment  
Private Bag 18888  
Parliament Buildings  
Wellington 6160

Dear Minister,

#### **Essential Freshwater – Regional Sector Water Sub Group response**

The Regional Sector Water Sub Group (on behalf of LGNZ's Regional Sector) is pleased to provide you with advice on the policy proposals that have been shared with us. We have prepared a more substantive document that will be provided to officials in coming days, in support of our summary document (**attached**). We have had limited time to consider the package and we have not sought feedback from the wider Regional Sector so at some date in the future we may need to refine our advice. In addition, our comments are made in the absence of the full set of policy proposals and are therefore limited to:

- Decisions on national direction for rural land use;
- Assisting councils to implement the NPSFM;
- Seeking agreement to national direction proposals #1; and
- Seeking agreement to national direction proposals #2.

The Regional Sector Water Sub Group supports central government's policy intent/objectives to reduce the risk of further water quality and ecosystem degradation in the time it takes to fully implement the NPSFM.

The details of the regulations are very important and we have identified many of the specific matters that require attention and resolution. The Regional Sector wants to be involved in shaping the detail and is happy to work with officials on how our resource can best be utilised.

#### Set priorities and provide science support

We note that the policy proposals go beyond supporting the implementation of the existing NPSFM and considerably expand its scope. The expanded scope has very real implications for meeting timeframes, even with a new truncated plan making process. We urge you to fully consider government priorities, given that implementation of the proposed regulations will require substantial resourcing, and the on-ground actions will have significant costs across the country.

We accept that some step change is required and some costs are inevitable in order to achieve the policy objectives of halting the decline in freshwater and seeking demonstrable improvements in water quality in five years.

As we have considered the proposals we have identified there will need to be a significant upscaling of catchment-based knowledge to support the Government's freshwater policy agenda. We consider that New Zealand has a strong land-water science capability, but we would like to see greater emphasis on rapid translation of our collective knowledge into tools to support regional councils. Investment in the science to enable robust assessment of ecosystem health is one critical area, as is the development of tools for catchment accounting that enables stronger links to be made between changing land use and freshwater outcomes.

There is an opportunity to direct more of the current national science investment to support the intent of the proposed packages. This could include redirecting national science to the science needed to prepare for plan making and presenting technical evidence to hearings to speed up plan making processes and investing in further applied science. The current national science system does not seem to favour investment in the key water management questions, such as up-to-date mapping of landuse, developing tools for catchment accounting, and improving our understanding of links between actions on the land and outcomes in waterways.

#### Rural package

The "rural package" is a potential game changer. We acknowledge it will be a challenge to deliver because of the capacity and capability required across the different parts of the system. Many of the proposals require detailed farm scale information and some regional councils have this for some catchments but it is not universal. We encourage you to consider whether an NES could require this information to be provided by landowners, with urgency, so that regional councils have access to it to enable specific proposals such as the N-cap and High Risk Land Use Area, as well as catchment accounting and improved State of Environment (SoE) reporting.

#### Implementation of the NPSFM

The Regional Sector supports in principle the new plan making process. We have long identified the time taken to resolve appeals to the Environment Court as a problem and the proposed process addresses this to some extent.

Our collective experience, however, shows that it is the pre-notification process that is increasingly complex and time-consuming. The science is complex and working with stakeholders and the community before notification takes considerable time and resource. Iwi engagement in the process is fundamental and should not be curtailed.

When this is taken together with some fundamental changes to the NPSFM (which will require a reconsideration of plan changes and new plan changes), the proposed changes to timeframes are likely to be unrealistic.

#### NPSFM changes

There are some very substantive changes proposed and we see this presents a significant risk to getting plans operative. We urge some consideration of priorities. Some of the changes are presented as relatively minor but they are in fact significant and they present scope for reinterpretation and potentially reworking current planning processes.

A number of new attributes are proposed, for example relating to ecosystem health and reporting on

ecosystem health. In some cases the attributes proposed are not supported by available science and/or are not fully agreed to. We would like to see a strengthening of the intent of objectives and policies rather than prescribing methodology where we have a knowledge deficit. Assessment of national science priorities to potentially address these knowledge gaps can also assist closing these gaps.

The changes to the NPSFM and the new National Environmental Standards will require more monitoring of attributes as part of catchment-based accounting. These changes point to the need to reconsider the framework for environmental reporting and we encourage you to do this, supported by better science and a redirection of our national science budget.

Concluding comments

Overall, we urge the Government to prioritise effort to target where change is needed and can be achieved, taking into account the capacity of the key agencies to respond. Priorities should also be set based on return on investment. We would like to work with you to agree priorities, focused on what can be delivered well.

We have work underway, currently focused on one region, to determine the capacity and capability needed to deliver the Essential Freshwater proposals. We will share this with you when the work is completed.

I would like to meet with you to discuss this letter, with some of my colleagues.

Yours sincerely



Doug Leeder  
Chair, LGNZ Regional Sector

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Who's  
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the national  
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**We are.  
LGNZ.**

4 May 2018

Hon David Parker  
Minister for the Environment  
Parliament Buildings  
WELLINGTON

E: [d.parker@ministers.govt.nz](mailto:d.parker@ministers.govt.nz)

Dear Minister

**Regional council/unitary authority advice on Water Policy implementation**

When you met with LGNZ's Regional Sector in February this year you asked for the Sector's thoughts on how regional councils might make more rapid and more effective progress in tackling New Zealand's water quality and quantity challenges. I write in response on behalf of the Regional Sector.

Since we met, the Sector has undertaken work on this question and intends to set out current thinking in some depth in a letter to the Secretary for the Environment. That should be available within a few weeks. We have also uncovered a range of matters that warrant deeper thinking and we are considering commissioning a "think piece" report to explore these issues and options further.

In the meantime, we thought it would be useful to set out our preliminary thinking on both short-term and medium-term initiatives that would both expedite implementation of the National Policy Statement for Freshwater Management (NPS-FM) and improve the effectiveness of regional councils' water management interventions more generally. That is the purpose of this letter. We would welcome a meeting with you to expand on ideas raised in this letter.

Before we set out our preliminary ideas it might be helpful if we shared with you our understanding of the context within which we undertake our core business in the front line of New Zealand's effort to improve water outcomes.

Water management is a challenging business and displays all the classic traits of a "wicked" problem. The concepts of water quantity and water quality are complex and there are real challenges in interpreting and communicating data in a way that people can understand but which also gives a fair and accurate account of what is happening. These issues do not lend themselves to sound bite analysis but that is too often how we are judged. In fact, we find that there are multiple threats to water. We often do not have all the tools available to manage some, or all, of those threats effectively. There is a diverse range of legitimate values and interests at stake. Real progress can be challenging since we are often dealing with legacy issues and managing contemporary behaviours, although critical, is only part of a bigger picture. We are also constantly mindful of the relationship between land use and social and economic well-being and the tension that inevitably arises.

Our collective experience is that in thinking about any reform programme there is a need to be mindful of a few key principles:

- The need for *flexibility* in how regional councils respond to issues which will be different between and within regions in terms of their severity, in their underlying cause and in the appropriate response. One size does not fit all;
- Because of the above we very often need *place-based solutions* to problems;
- Genuinely durable responses require *community buy-in*;
- In designing appropriate responses at the regional and catchment scale we need *every tool on the table*;
- Because nothing stays the same and our knowledge improves over time we need *agility* in our ability to respond; and
- *Stability in policy settings* enables regions to get on with implementation. Constantly moving goals posts has the opposite effect.

With those overarching principles in mind, our preliminary view is that the nine matters listed below need attention. In terms of priority and the scale and immediacy of return on effort we would suggest that the first four matters listed should be prioritised.

#### 1. Improving plan agility

Regional plans need to be able to be developed and made operative in timeframes that respond to the urgency and relevancy of the issues. Too often plans are caught up in very lengthy hearings and appeals processes that mean they can be out of date before that are operative. This long-standing problem will be compounded by the need for most regional plans under the NPS-FM to be rolled out with a series of sub-regional plan changes introducing catchment<sup>1</sup>-specific limits in the period extending to 2025.

At least part of the solution is to adopt a plan making process nationwide that *removes de novo Environment Court appeals*. There is obvious recent precedent for this approach in Canterbury and in Auckland. We believe that such a decision-making model will at least halve the time required to make regional plans operative.

#### 2. Retaining quality decision-makers

Regional and unitary councils have long supported representative decision-making within a democratic system of regional governance. That support continues. However, we are also conscious that regional land and water plans require specialist knowledge and experience to be brought to bear. Water plans and associated science and modelling is complex. We think decision-making (at all levels) has, at times, suffered (both in terms of the length of hearings and the quality of decisions) from inadequate expertise in decision-making fora. There is currently a very small pool of experienced water management decision-makers.

A solution is for central government to assist in building capacity in this field and in establishing a pool of specialist *water commissioners* who can be deployed around the country bringing greater consistency and efficiency to decision-making. We would see these specialist commissioners as having demonstrated a level of technical proficiency, possibly through an add-on to the existing Making Good Decisions hearing commissioner certification programme.

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<sup>1</sup> These relate sub-regional areas as defined by regional councils. They may be catchment or Freshwater Management Unit (FMU) in scale

These specialist commissioners would sit with locally appointed commissioners at the discretion of regional and unitary councils. If de novo appeals are dispensed with, we accept that such hearings panels may need to be chaired by current or former Environment Court judges.

### **3. Improving certainty in the policy environment**

Despite the NPS-FM (and in part because of it), considerable uncertainty remains about what regional councils need to deliver and how they are to do that. Some provisions are simply ambiguous<sup>2</sup>. Furthermore, NPS-FM amendments continue even before regional councils have completed implementation of the initial obligations.

This uncertainty contributes to longer and more fraught decision-making processes than necessary. Uncertainty breeds debate and debate breeds delay. In addition, continuing amendment to the NPSFM necessitates that councils invest in costly amendments to plans at the expense of implementation of those plans (and progressing non-statutory measures).

Regional and unitary councils consider that the NPS-FM includes a sufficiently ambitious shift in practice that it should be allowed to bed in without further substantive change in the short or medium term. Any further short-term amendments should be limited to clarifying the appropriate implementation of existing provisions.

### **4. Achieving confidence in models**

Models are increasingly important tools for informing water management. They are, however, both complex to understand and largely un-managed in the sense that there is no formal, recognised system of verifying the validity of models. As a result, decision-makers in regional plan hearings (and on appeal) can be faced with difficult decisions about whether particular models (as advanced by submitters) should be used and, if so, with what conditions and caveats. That is a big ask for decision-makers that are seldom equipped to make those decisions.

One solution is to institute a *formal model approval process* that ensures that models are based on broadly accepted principles and relationships and have been through appropriate development process (including peer-review, calibration and validation and levels of uncertainty established and clearly documented) and are approved for use in particular contexts (included regulatory contexts). We understand that this would be consistent with practice in other jurisdictions.

We would stress here that model calibration will often need to be specific to the local place or situation in which a model is to be used. Hence, formal approval of a model will need to consider these localised factors and may require local calibration.

### **5. Making regional plan regulation more effective**

As discussed above, getting regional plan regulation in place can be an exhaustive process. We need to ensure that once in place, regulation is as effective as it was designed to be. That does not always occur because of the protection afforded by the Act for those seeking to (lawfully) defeat, or at least delay, the effect of regulation.

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<sup>2</sup> We will itemise these in our letter to the Secretary for the Environment.

That can happen because of:

- The inability of new plan rules to affect existing consents and the difficulties associated with reviewing those existing consents (relating to cost, time, equity of treatment across consent holders and limits on the extent to which existing consents may be altered); and
- The ability to seek a certificate of compliance (CoC) for an activity that is lawful but not existing before a new regional plan is notified (thereby allowing an activity to establish notwithstanding that the proposed plan seeks to restrict it). This “loophole” was recently highlighted in the Waikato Region where a CoC allowed for the actual and potential intensification of land use that a subsequent plan change specifically sort to halt.

The solution requires legislative change. We also note that enforcement of plan provisions can be challenging and the effectiveness of enforcement action (where there is not formal prosecution) questionable. Accordingly, regional and unitary councils would support a review of enforcement tools.

These are matters we will raise in more detail with the Ministry for the Environment.

#### **6. Broadening the tool box to address legacy issues**

It is well-accepted that the solution to many water quality problems lies not simply with limiting damaging activities or behaviours but with pro-active interventions that address pervasive environmental risks – caused, in many instances, by what we can now see and very poor decisions by past generations. Addressing these legacy, both urban and rural, issues at genuine scale cannot be achieved by regulatory means alone and is beyond the ability of individual regional and unitary councils with current funding models – except over very long timeframes.

One solution, acknowledging the Crown’s existing programmes, is a dedicated *water outcomes improvement fund* that accelerates on-the-ground works that improve water outcomes. Regional and unitary councils would be able to access this fund by way of partnership funding for the purpose of co-ordinating large-scale works for priority water bodies. Other parties (including individuals) could also access the fund provided the scale of the projects meet criteria and/or the project is part of an approved regional council water quality improvement plan.

#### **7. Prioritising effort and expenditure**

A closely related challenge is the need for greater certainty over where to afford priority. This issue is most obviously raised in the context of providing financial support and in the deployment of other non-regulatory measures but ensuring regulatory responses are underpinned by rigorous and consistent strategic analysis is equally important.

New Zealand has almost 200,000 km of rivers and streams consisting of at least 70 major rivers (with hundreds of tributaries), many thousands of streams (and more than 770 lakes). There is currently no regional or national prioritisation system that marshals resources and effort toward the greatest national and regional benefit.

Regional and unitary councils would support the development of a multi-variant water body classification system that helps guide how priorities are established at the regional scale. Importantly, this would need to consider both potential benefits and costs (ie why is the best values to be gained from the available investment<sup>3</sup>)

#### **8. Capacity and capability for effective regional plan implementation**

Regional plans will only ever be as effective as regional and unitary councils' ability to implement them "on-the-ground. The NPS-FM is driving a new generation of regional plans that require many more, and more complex, consents with subordinate obligations in terms of farm environment plans and nutrient budgeting (which might also be required on a vast number of permitted activities). All of this needs to be supported in various ways and compliance monitored by regional and unitary councils. A wide range of capability and capacity issues arise.

Despite this reality, the issues and challenges around regional plan implementation and the issues have received scant attention by central government agencies. We consider that much more systematic consideration of plan implementation needs should be undertaken.

One we would draw particular attention to is the need for regional councils to be able to charge for compliance monitoring of permitted activities.

#### **9. Co-ordination with other central government policies**

Finally, there is an obvious need to ensure alignment between government's wider policy initiatives and our joint water management objectives. In particular, we see both opportunities and threats in the incentives created by both the emissions trading scheme (ETS) and initiatives such as the Hill Country Erosion Programme, the Afforestation Grants Scheme and the new Billion Tree Programme. It is important that the water co-benefits (and potential perverse impacts) of these policy initiatives be front and centre of future policy-making.

However, the impact of government policy decisions on water outcomes is much broader than just those specific initiatives. Treaty settlements and government decisions made about housing, transport and other infrastructure, for example, can have both direct and strategic implications (both positive and negative) for water outcomes in both urban and rural settings.

We believe that this needs to be acknowledged and factored into decision-making.

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<sup>3</sup> These types of decision-making tools are available to assist management of other issues – in biodiversity for example – but not currently for freshwater management.

**A final word**

Finally, and as indicated earlier, we would welcome the opportunity to discuss these issues with you at your convenience. As noted above, we have undertaken more detailed work in some areas and are looking to build further on that work. We intend to share what we have done with the Secretary for the Environment in the near future.

More generally, we believe that the Regional Sector has a considerable amount to contribute to the wider water management discussion at both technical and policy levels. We would welcome further developing the relationship between regional and unitary councils and government agencies with a role in water with a view to adding the value of hands-on-experience and front line thinking to national policy development in this area.

We will contact your office in the near future to see when a meeting might be possible.

Yours sincerely



Doug Leeder  
Chair, Regional Sector  
Local Government New Zealand

Released under the Official Information Act 1982

20 May 2019

Hon David Parker  
Minister for the Environment  
Private Bag 18888  
Parliament Buildings  
Wellington 6160

Dear Minister

### **Freshwater Reform**

The Regional Sector Advisory Group to the Essential Freshwater Taskforce met recently and we are pleased to provide you with advice on the recent proposals that have been shared with us.

Firstly, we reiterate that we support the Government's policy direction. We are focused on ensuring that the proposals achieve the Government's intended outcomes, in particular to see a demonstrable improvement in ecological health in our freshwater environments. We have also focused our thinking on the proposals with regards to implementation of the policy and, specifically, what the capability and capacity challenges will be. Such challenges extend beyond the regional sector and include all sectors with responsibility to improve freshwater outcomes. To achieve implementation quickly, industry should be mandated to require Farm Environment Plans as a condition of supply.

In the body of the letter we have raised strong concerns regarding the details of the proposals for new attributes for DIN and DRP in rivers to improve ecological health; these are outlined below.

### **The need to prioritise**

We remain of the view that the proposed policy package is too wide in scope and that we cannot implement all of the proposals. If our capacity is spread too thin, our focus will be diverted from the work we have underway already and we are concerned that effort will be put into implementing policies that will actually effect little improvement on freshwater quality.

We have amended the table previously provided and given each policy a ranking of high, medium or low - according to the extent to which an intervention will make a demonstrable improvement to water quality. Many of the policies, particularly the "rural package" we support and are already engaging with officials on how implementation could work.

We are also of the view that prioritising the catchments identified as "at risk" is the most sensible approach to improving water quality. Unfortunately the "system," including all of its component parts, is not currently resourced to implement all of the reform package at the same time. Priority should be given to the catchments that are at risk of degradation in relation to the attributes specified in the proposals. We want to continue to work with officials to progress the "At Risk Catchments" approach.

## Improving Ecosystem Health

The Regional Sector Advisory Group has considered the most recent policy proposals covering ecosystem health that have been shared with us. The proposals for E.coli are supported. The policy proposals for DIN and DRP are not supported. We are concerned that the approach has considerable risk that the anticipated outcomes (better ecological health) will not be met, and that in the process significant cost will be incurred to communities through required land use change. The Regional Sector Advisory Group is concerned that the science is unproven, not subject to peer review, and is in need of significant work to have the confidence that there is a direct causative link. Under the proposed new attribute limits, significant reductions in DIN and DRP will be required to lift many of our waterways out of the D band (as required by NPS-FM). In many situations, this will only be possible through land use change with the consequential impacts on regional economies and potentially create further social dislocation from our rural communities.

The fundamental premise of the proposals is, there is a direct and causative link between nutrient levels and ecological health (i.e reductions in N and P will result in predictable improvements in indicators such as the Macroinvertebrate Community Index or fish health).

There is a significant body of peer reviewed research in New Zealand that has identified drivers of ecosystem health. This body of research does not support the very simplistic premise of the proposals. Environmental drivers of ecological health are complex. Robust predictive models do exist in several regions (e.g. Waikato, Horizons) and these tend to identify flow, habitat and sediment as the key drivers. In most cases, nutrients are of secondary importance for macroinvertebrate measures of ecosystem health, (but are more important for periphyton).

An alternative approach that is subject to international research and peer review and more scientifically defensible is to review the existing N-toxicity and periphyton attributes to establish more stringent levels of ecosystem health protection.

We are concerned that the weight of evidence to support the proposals is not robust. We cannot support the proposals as they stand.

To achieve improved ecosystem health we recommend that MfE consider an alternative approach that strengthens requirements for existing attributes (i.e periphyton and N toxicity) and measures (e.g. MCI) to deliver stronger guidance in the NPSFM.

We would like the policy proposals for DIN and DRP to be peer reviewed by a suitably experienced independent expert.

## Fair allocation

We have been provided with the "Fair Allocation Discussion document" but have not had sufficient time as an Advisory Group to fully consider the proposal and be in a position to provide advice. We make some high level points at this stage:

- In principle we support a Nutrient Allocation System as part of a package of initiatives for improving management of New Zealand's freshwater resources.
- We consider it is essential that Māori rights and interests in freshwater are accommodated and resolved by the Crown before rolling-out a Nutrient Allocation System.
- There are numerous implications for regional councils and we will be looking to have a focused discussion soon on the proposal.

## Implementation

At our most recent meeting of the Advisory Group we discussed implementation of the reform package.

While we are focused on implementation by regional councils and how the policies will land on the ground, we are conscious of the need to look across the entire 'system' to ensure that all component parts, including central government aspects, are clearly identified, are coordinated and have the requisite capacity and capability to implement the proposals.

We are of the view that a 'whole of government' (central and local) approach to implementation is required and that co-design, with regional councils is essential. The implementation package will need to give attention to the matters below.

### Agreeing priority catchments

The At Risk Catchments approach needs to be progressed and finalised so it can be the framework to agree national and regional priorities for catchments to target e.g. for phased roll-out of Farm Environment Plans. At present we are concerned that the data being used to inform the At Risk Catchments approach may not be aligned to the data currently identified by the Essential Freshwater proposals to improve freshwater outcomes.

### Alignment of science funding with the freshwater policy agenda

There will need to be a significant upscaling of catchment-based knowledge to support the Government's freshwater policy agenda. We consider that New Zealand has a strong land-water science capability, but we would like to see greater emphasis on rapid translation of our collective knowledge into tools to support regional councils. Investment in fundamental and applied science is required right now and less focus on stretch science. Our ability to enable robust assessment of ecosystem health is one critical area for example, as is the development of tools for catchment accounting that enables stronger links to be made between changing land use and freshwater outcomes.

There is an opportunity to direct more of the current national science investment to support the intent of the proposed packages. This could include redirecting national science to the science needed to prepare for plan making and presenting technical evidence to hearings to speed up plan making processes and investing in further applied science. The current national science system does not seem to favour investment in the key water management questions, such as up-to-date mapping of landuse, developing tools for catchment accounting, and improving our understanding of links between actions on the land and outcomes in waterways. We would be very happy to work with your officials to clarify what we see is required.

Specifically, investing in science to enable robust assessment of ecosystem health is one critical area, as is the development of tools for catchment modelling and accounting that enables stronger links to be made between changing actions on the land and freshwater outcomes.

### Capacity to prepare and audit Farm Environment Plans

The proposal for Farm Environment Plans as part of the "Rural Package" means there will be demand for the skills to work with farmers to prepare Farm Environment Plans and to audit them. This signals the need to consider what changes are needed to our vocational training offerings to ensure FEPs can be delivered in a timely way.

### Mapping of land use

Investing in up-to-date mapping of land use, and in land suitability databases is necessary to underpin some of the proposals. This should include a national stocktake/mapping exercise by CRIs of where High Risk Land Use Activities occur.

### Environmental reporting framework

The framework for environmental reporting will need to be reconsidered to take account of the proposed new monitoring requirements.

### Compliance monitoring

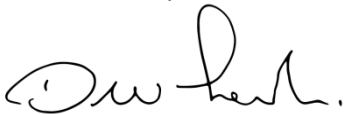
Increasing compliance monitoring will be required, including aerial monitoring and ground based follow ups. Compliance monitoring will also have to focus on new matters, requiring system changes. The ability to recover costs of permitted activity monitoring needs to be resolved as new regulations will require additional monitoring with requisite costs.

### Planning template

We see potential for a template for freshwater plans and common provisions where possible. National Environmental Standards based on At Risk Catchments is also a concept worth exploring.

Members of the Advisory Group would like to meet with you to discuss the contents of this letter and our advice. I see merit in regular meetings as the package progresses, if you have capacity for this.

Yours sincerely



Doug Leeder  
Chair, Regional Sector  
Local Government New Zealand

Released under the Official Information Act 1982

22 May 2019

## Regional Sector Water Subgroup position on Essential Freshwater proposals

The Regional Sector Water Subgroup congratulates the Ministers for the Environment and Agriculture on the bold proposals to improve the quality of freshwater and give effect to Te Mana o Te Wai.

- The proposals build upon the significant work already occurring around the country to improve freshwater, including regional plans and 'on the ground' investments.
- Many of the proposals have the potential to improve the quality of our freshwater; the "Rural Package" and many of the national direction policies will play a key role in improving water quality.
- However in our view the proposals cannot all be implemented in the timeframes suggested, and due to capacity constraints in the system outside of regional council control, some of the proposals are unlikely to achieve the outcomes sought.

### A shared responsibility

- We support sharing responsibility for freshwater quality to include all parties; for example, Farm Environment Plans will be the responsibility of landowners and industry with regional councils in an auditing and compliance role.

### We need to prioritise

- Water quality issues don't exist everywhere - catchments should be prioritised and focus given to those deemed most "at risk."

### Upscaling of catchment science and data

- Priority should be directed in the national science investment to support the proposed packages; this includes investment in key water management questions, up-to-date mapping of landuse, tools for catchment accounting, and improving understanding of links between actions on the land and outcomes in waterways.

### Dissolved Inorganic Nitrogen (DIN) and Dissolved Reactive Phosphorus (DRP) attributes

- The attributes for DIN and DRP are not supported and we are very concerned about the implications of these proposals.
- There is a significant body of research in New Zealand that has identified drivers of Ecosystem Health which does not support the premise of the proposals.

### Implementation

- Implementation across all of the system needs focus – resourcing capability and capacity; we have started work on an implementation plan for the regional sector, and we look forward to engaging with the other sectors and with the Crown, as they advance their own plans.

Vaughan Payne  
Co-Chair, Regional Sector Water Subgroup

**Attachments**

1. Freshwater Reform, Letter to Hon David Parker 20 May 2019.
2. Regional Sector Water subgroup feedback on Essential Freshwater Policy Proposals, table dated 26 April 2019 and 20 May 2019.
3. Essential Freshwater –Regional Sector Water Subgroup response, Letter to hon David Parker 26 April 2019.
4. Regional council/unitary authority advice on Water Policy implementation; Letter to Hon David Parker 4 May 2018.

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Who's  
putting local  
issues on  
the national  
agenda?

**We are.  
LGNZ.**

26 June 2019

Hon David Parker  
Minister for the Environment  
Parliament Buildings  
Wellington

Hon Damien O'Connor  
Minister of Agriculture  
Parliament Buildings  
Wellington

Dear Ministers

### Freshwater Reform

The Regional Sector Water Subgroup (RSWS) is pleased to provide you with our advice on the policy proposals for Freshwater Reform. The RSWS has been fully engaged in the process to date, most recently in the Integrated Group. Our detailed advice on the proposed policies is attached to this letter. As we have previously advised, we support the general direction of the proposals set out in this document, as an immediate step towards improving water quality and ecosystem health. We acknowledge the Government wants to make faster progress. We also support the concept of Te Mana o Te Wai as the overall framework for managing freshwater resources.

In the early days of the Resource Management Act (1991), New Zealand's water quality challenges were strongly linked to point-source discharges. By improving technology and resource consent conditions, point-source discharges have improved significantly, demonstrating that the current resource management system can work. However, the gains made by improving point-source discharges have been largely overshadowed by land use intensification.

Successive governments, industry and the economic system encouraged land development and intensification, including subsidising large scale land clearance and wetland drainage. As New Zealand works to address the significant challenges these past behaviours have created, we all need to take responsibility to improve water quality. Major progress is being made to improve catchment management and tighten local environmental regulations in different parts of the country. While the Regional Sector strongly supports the Government's intent to improve water quality, we are concerned to ensure that the likely impacts of the new proposals on communities are well understood and factored into the pace of change. We need to take landowners and communities with us. It is also essential that the new proposals can be practically implemented in the stated timeframes, noting that significant capacity and capability issues exist across all sectors.

In the view of the RSWS, a strong focus on implementation is needed, setting priorities to focus on catchments most "at risk;" ensuring the science supports the policy proposals, particularly for Dissolved Inorganic Nitrogen and Phosphorus; and we urge the Government to ensure it has robust and quantitative analysis of the impacts associated with the proposals and that appropriate transition pathways are provided.

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### Whole of system approach

The RSWS holds the view that a whole of system approach is necessary to improve the quality of our fresh water bodies and that the policy framework should reflect responsibilities accordingly.

We have strongly advocated that this principle should be embedded into the policy framework and the respective regional sector and Crown implementation plans.

We also note potential tensions between the proposed Freshwater Reform and other national programmes which are seeking to achieve different objectives. These programmes do not necessarily have improved outcomes for fresh water at their core. For example, in the Eastern Bay of Plenty, central government has just approved PGF funding for kiwifruit development. This is likely to require water use and would trigger the proposed rule for intensification of rural land use. There is also an underlying tension with the National Policy Statement on Urban Development Capacity, given the direction to manage all aspects of ecosystem health so fresh water can be maintained or improved.

### The need to prioritise

We remain of the view that the proposed policy package is very wide in scope and that prioritising the catchments identified as "at risk" is the most sensible approach to improving water quality. The "system," including all of its component parts, is not currently resourced to implement all of the reform package at the same time. In addition, water quality issues do not exist to the same extent across the country and priority should be given to the catchments that are most at risk of degradation. This helps address capacity and capability issues by focusing resources on those catchments that have the most need. Given our local knowledge, the regional sector is offering to work alongside the Government to help identify such catchments.

### Implementation

We continue to reiterate that we support the Government's policy direction and we are focused on ensuring that the proposals achieve the Government's intended outcomes, in particular to see a demonstrable improvement in ecological health in our fresh water environments.

You will be aware of the significant progress that has been made to give effect to the NPSFM 2011 and its subsequent amendments, and that regional councils are actively in the process of setting limits. We are concerned to ensure that work does not stop on these processes that are underway or that this work needs to be redone. In terms of improving water quality, both of these would be a detrimental step. We would like to work with you to manage this.

The RSWS strongly supports the proposed Streamlined Planning Process and we thank you for responding to our call for "plan agility" over a number of years. We do hold concerns about the proposal that councils must notify regional planning documents to implement the NPSFM no later than 31 December 2023 and ensure plans are in place by 2025. Even with the Streamlined Planning Process, we consider this very ambitious and we urge you to look at ECAN's experience with their streamlined planning process as this will point to what is realistic.

One of the sacrifices that will be made to achieve shortened timeframes will inevitably be community consultation and engagement with stakeholders, and both the Government and regional councils will be criticised for this. There will also be tension with the expectations and statutory requirements regarding co-governance and/or consultation imposed by Treaty Settlements, so this needs to be accounted for.

We have focused our thinking on the proposals with regard to implementation of the policy, and specifically, what the capability and capacity challenges will be. Accordingly, the RSWS has work underway, focused on implementation of the policy proposals. The focus of our work is implementation by the Regional Sector. We support the work being carried out for the Crown and for other parts of the system with regard to implementation. Without a robust implementation plan, any agreed targets won't be met.

The RSWS also supports the Parliamentary Commissioner for the Environment's review of the use of Overseer by regional councils and recommends that any regulation utilising Overseer is undertaken in line with those recommendations.

#### Ecological health

The RSWS agrees that there is a need to reduce nutrient pollution by Nitrogen and Phosphorus. We are concerned to ensure a robust evidence base supports any new bottom lines for nutrient pollution. We support new bottom lines where they are effects-based and we have confidence they will achieve desired ecosystem health outcomes. We acknowledge the work of the Science and Technical Advisory Group, but our own science advisers have raised scientific concerns about this.

Given our concerns over the proposed DIN and DRP attributes, and the recognised need to better manage eutrophication issues, RSWS has suggested an alternative of reducing the national bottom line for Nitrate toxicity, and emphasising the requirement for councils to set appropriate DIN and DRP exceedance criteria for periphyton and sensitive receiving environments like estuaries. Where they don't do this, councils could rely on the existing national periphyton table. This is on the basis that regional models/estimates will be more accurate and targeted to actual effects than the national tables. RSWS is concerned that many streams that fall below national bottom lines may not be at significant risk of periphyton/algae driven ecosystem health effects.

#### Impact Assessment and Transition

The proposed reform package is ambitious and will have significant impacts, both economic and social that will be experienced unevenly across New Zealand. The RSWS urges the Government, when setting thresholds, to consider the economic impact of various policy options. We have yet to see any impact analysis but would draw your attention to the work of Simon Harris for Environment Canterbury<sup>1</sup> in June 2017 that considered the implications of meeting the National Policy Statement for Freshwater Management objectives for lake environments in Te Waihora. The study considered the implications of reducing the nitrate load by 76 per cent. I acknowledge this wasn't specifically to achieve an N of 0.88mg/l or 1mg/l, but 0.88mg/l represents approximately an 80 per cent reduction which is very close to what was considered. The impacts were significant, reducing operating surplus returns by 80 per cent with a corresponding devastating impact on the communities within the catchment.

By way of information, the magnitude of the impacts on the socioeconomic wellbeing of the Selwyn District were so significant that the collaborative Zone Committee including six representatives of Ngai Tahu rūnanga chose a different target and pathway. The target and pathway went to become part of the Selwyn Waihora sub-regional plan, despite considerable contest and is still in place today.

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<sup>1</sup> June 2017 Memorandum on the Implications of meeting the National Policy Statement for Freshwater Management objectives for lake environments in Te Waihora

The Government will require robust, quantitative impact analysis when deciding where to set new thresholds. This will inform your decision-making and also assist with deciding on appropriate transitions to meet new thresholds.

We look forward to continuing to work with you to progress the Essential Freshwater Reforms.

Yours sincerely



Doug Leeder  
Chair, Regional Sector  
Local Government New Zealand



Vaughan Payne  
Co- chair  
Regional Sector Water Subgroup

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## Regional Sector Water Subgroup feedback on Essential Freshwater Policy Proposals

26 April 2019 **Additional proposals 20 May 2019**

Regional Sector Water Subgroup ranking of the proposals **HIGH/MEDIUM/LOW** re contribution of the proposal to improve water quality

2019 – B – 05440 Seeking agreement to national direction proposals - the “rural package”

Proposal	Regional Sector Water Subgroup position
<p><b>Farm Environment Plans (FEPs)</b></p> <ul style="list-style-type: none"> <li>FEPs should be risk based and mandatory – where risks to WQ are high</li> <li>Phased roll out proposed</li> <li>Minimum content will be defined</li> <li>Certified practitioner to approve FEP</li> <li>Independent auditing and reporting</li> <li>Existing and new FEP regimes enabled</li> <li>RCs to monitor the sign-off of FEPs</li> <li>Roll out over 10 years; current tranche 1 by 2022, tranche 2 by 2025, all (Tranche 3) by 2030</li> <li>Tranche 2 will target vulnerable catchments and catchments with high water quality risks</li> </ul>	<p>Very strong support – implementation issues to resolve and industry will be critical in FEP roll-out <b>HIGH</b></p> <ul style="list-style-type: none"> <li>Support industry leadership in FEP delivery and Councils’ role in monitoring and auditing of FEPs.</li> <li>National and regional priorities need to be set and reconciled to support phased roll-out.</li> <li>Need to quantify current capacity to deliver and estimate size of task - how big is the gap? Solutions?</li> <li>Transition of FEPs from voluntary to consent requirements raises implementation and CME issues (e.g. enforceability of actions).</li> <li>Achieving national consistency is important – auditing to support this.</li> <li>Support a modular design – start simple then “bolt on” as issues and capabilities evolve.</li> <li>Recognise the FEP is simply the vehicle for actions to reduce impacts on freshwater - keep it simple so focus can be on actions/change.</li> <li>Need framework for assessing effects of actions on freshwater outcomes (Is action having impact?).</li> <li>It would be useful to have a sense of how large each tranche is. Support extended rollout and prioritisation based on environmental risk</li> </ul>
<p><b>High Risk Land Use Activities (HRLUAs)</b></p> <ul style="list-style-type: none"> <li>Covers feedlots, stock holding areas and intensive winter grazing</li> <li>Regulations will prescribe minimum standards and/or require conditions of consent</li> <li>Consent requirement for intensive winter grazing on a slope over 20 degrees, or over an area greater than 50ha/10% of a property</li> <li>If a consent is not required, technical standards apply to intensive winter grazing where it occurs:             <ul style="list-style-type: none"> <li>grazing management, a 5 m setback, and critical source area protection</li> <li>pugging depth of 10cm over no more than 50% of a paddock</li> <li>sediment control measures (eg a requirement for sediment ponds, bunds, cut-offs)</li> </ul> </li> </ul>	<p>Support increased controls on high risk activities <b>HIGH</b></p> <ul style="list-style-type: none"> <li>High consenting burden for some regions depending on definitions.</li> <li>Definitions need to be clear and unambiguous - many matters to be resolved including the intended scope of HRLUAs (e.g. intended to cover dairy milking sheds, stock yards?).</li> <li>General lack of information about where HRLUAs currently occur - a national stocktake/mapping exercise would be very useful for RCs and our CRIs have the capabilities for detailed mapping.</li> <li>The rationale for and use of activity status and controls needs to be clarified (e.g. matters of discretion?).</li> <li>Establishing 2013-2018 baseline (e.g. extent of forage cropping) will be very difficult and open to gaming.</li> <li>Compliance monitoring likely to require costly aerial observations and ground-based follow-ups - very significant resource implications (and shifting compliance monitoring priorities?).</li> <li>Pugging definition will be very difficult to monitor/enforce</li> </ul>
<p><b>Stock exclusion</b></p> <ul style="list-style-type: none"> <li>NZ will be divided into ‘lowland area’ and ‘other’ area;</li> <li>Within lowland areas:             <ul style="list-style-type: none"> <li>all lakes and intermittent<sup>1</sup> rivers<sup>2</sup> &gt;1m wide stock excluded within 12 months for all dairy + dairy support; within 3 years for other pastoral systems</li> <li>all permanent and intermittent rivers &lt; 1m should have stock excluded within 3 years for all dairy and dairy support; within 5 years for other pastoral systems</li> <li>all wetlands should have stock excluded within 3 years</li> <li>at least a 5m setback to be provided from rivers and lakes; no setback from drains</li> <li>5 years to move existing fencing</li> <li>opportunity to apply to reduce setback/extend timeframe</li> </ul> </li> </ul>	<p>Very strong support, but resolution needed: <b>HIGH</b></p> <ul style="list-style-type: none"> <li>Where stock already excluded but 5m setback not achieved, landowner should NOT be required to shift the fence unless required by a regional plan/FEP - very large expense for marginal water quality gains.</li> <li>Regional plans need to be able to set a more specific setback and to require planting (e.g. Variation 6 to Waikato Plan requires 3m planted setbacks to mitigate effects of surface water takes).</li> <li>How is “lowland” defined and mapped? Needs to be land form focussed, rather than altitude, i.e., include plains and gently rolling land that may not be coastal.</li> <li>Compliance monitoring will be difficult, particularly for temporary fencing (could be linked with aerial surveys of HRLUAs).</li> <li>Difficult to justify a 5 m setback in all situations (not risk-based).</li> <li>Councils do not hold information about stocking units.</li> </ul>

<ul style="list-style-type: none"> <li>For 'other' areas a risk-based approach should be taken, stock exclusion required where:             <ul style="list-style-type: none"> <li>dairy/pig farming unless fully housed</li> <li>cattle or deer break-fed on fodder crops</li> <li>cattle or deer on irrigated pasture</li> <li>cattle or deer where stocking rate exceeds 14 stocking units/ha</li> </ul> </li> <li>All stock crossing points require bridge/culvert             <ul style="list-style-type: none"> <li>2 crossings per month permitted without bridge/culvert (exceptions for deer)</li> </ul> </li> <li>5 metre setback an average across the property, setback must not be less than 1m</li> <li>10 year transition period where there is existing fencing (fencing must not be less than 1m for waterway)</li> </ul> <p><sup>1</sup> Intermittent (but not ephemeral)  <sup>2</sup> and drains</p>	<ul style="list-style-type: none"> <li>Stock exclusion of sensitive areas (e.g. wetland/spring complexes in river valleys and inter-montane basins) outside the 'Lowland' area should also be considered.</li> <li>Careful consideration needed about including all intermittent streams and drains &lt;1m in the 5m setback requirement and in the timeframes stated. Perhaps prioritise.</li> <li>Improvement in terms of landowners having options to manage different risks through riparian setbacks. Same compliance monitoring challenges as for 5m setback everywhere.</li> <li>10 yr transition for existing fences more reasonable particularly given 5m average.</li> </ul>
<p><b>Intensification</b></p> <ul style="list-style-type: none"> <li>Interim intensification targeted at land-use change, forage cropping and irrigation in regions/catchments that do not have operative rules and limits (Regs cease when limits set):             <ul style="list-style-type: none"> <li>Increase in irrigated pastoral/arable/horticulture production</li> <li>Increase in forage cropping (ref to 2013 – 2018 footprint)</li> <li>High-risk land-use changes dairy support/sheep/beef to dairy and forestry to any pastoral use</li> <li>Any land-use change to commercial vegetable growing</li> </ul> </li> <li>Consent conditions would include FEPs, no increase in N, P, sediment or microbial pathogen discharges above a 2013-2018 baseline; GMP</li> <li>Two options for vegetables:             <ul style="list-style-type: none"> <li>Farm Environment Plans</li> <li>No increase in N,P, sediment or microbial pathogen discharges above a 2013 – 2018 baseline (average)</li> </ul> </li> </ul>	<p>Support, but resolution needed: <span style="float: right;">HIGH</span></p> <ul style="list-style-type: none"> <li>Covers land use change and some, but not all intensification pathways within a farming enterprise (e.g. increasing brought in feed not covered).</li> <li>Obtaining 2013 – 2018 footprint data will be very challenging.</li> <li>Confidence in modelling of 2013-2018 baseline for N, P, sediment and microbial pathogen discharges at property scale will be low.</li> <li>Limited information on these land uses is held by RCs to determine the baseline and for CME.</li> <li>Intensification regulations should apply to all sectors, as the intended outcome is improved water quality - horticulture has been entirely excluded.</li> <li>Support all sectors having similar requirements</li> </ul>
<p><b>Nitrogen cap</b></p> <ul style="list-style-type: none"> <li>Interim regulations in catchments without rules and where there are 'highly N impacted waterbodies' (described via criteria or listed catchments)             <ul style="list-style-type: none"> <li>FEPs to determine discharges (Overseer where possible) and farm inputs across catchment</li> <li>identify those with the highest N discharges</li> <li>set a percentile (75/85%) threshold for N-leaching for the catchment</li> <li>resource consent will be required for landowners above the threshold</li> </ul> </li> <li>Takes a different approach for vegetable growers</li> <li>A consent will be required for those above the identified threshold for high N leaching             <ul style="list-style-type: none"> <li>Provision of a FEP and Overseer budget will be a requirement</li> </ul> </li> <li>Dependant on information from individuals or from dairy processors (Fonterra)</li> <li>Extend the FEP proposals using N-surplus to target high nitrogen leachers.             <ul style="list-style-type: none"> <li>Establish national N-surplus thresholds by sector</li> <li>Include high N-impact catchments in the first tranche of FEPs (by 2022)</li> <li>All FEPs in high N-impacted catchments required to include an N-surplus calculation and measures to reduce it (whether under or over threshold)</li> <li>Those over threshold required to show how they will achieve the threshold within a timeframe specified in the NES, with annual audits until the threshold is reached</li> <li>Plans can be more stringent (eg require an Overseer budget)</li> <li>An additional component could fast-track the identification of farmers over the thresholds, through Accords with the sectors (likely quid pro quo is the sectors are able to deliver FEPs for their farmers)</li> </ul> </li> </ul>	<p>Support the intent, resolution of matters is needed: <span style="float: right;">HIGH</span></p> <ul style="list-style-type: none"> <li>Support targeting regulations to catchments where there are no effective rules/limits and there are 'highly N impacted waterbodies' (including estuaries).</li> <li>Definition of 'highly N-impacted waterbodies' is not clear - a national map would be useful.</li> <li>Obtaining adequate data to determine percentiles for different farming types (and soil/geology/rainfall types) is a major challenge.</li> <li>Will generate a significant consenting workload depending on scale of inclusions.</li> <li>Determining compliance against the N-cap is also challenging (e.g. based on average or maximum of multiple years data).</li> <li>Model approval process is needed for Overseer (e.g. pastoral agriculture) and need to develop/clarify an appropriate approach for other land uses (e.g. horticulture and vegetable growing) - very high priority for applied research.</li> <li>Horticulture and drystock needs to be included, as poor practice in these sectors does contribute significantly to N loads in some catchments.</li> <li>A single N-loss maximum cap is not appropriate for any sector.</li> <li>Need to be clear about what we are managing N for (i.e. reducing adverse effects vs controlling land use).</li> <li>How does this package align with Fair Allocation workstream? RSWs would like opportunity to review the Fair Allocation workstream.</li> <li>This greatly reduces reliance on OVERSEER and removes the variability driven by soil and rainfall differences. Also, easier to identify high-risk farm management practices relating to N surplus and target these in farm plans. Reduces environmental risk by requiring farmers to improve resource use efficiency.</li> <li>Success of proposal hinges on how/where thresholds are set, so seek an opportunity to review/input. Needs to include all sectors including horticulture.</li> </ul>

**2019 – B – 05416 Essential Freshwater 40: Assisting councils to implement the NPSFM**

Proposal	Regional Sector Water Subgroup position
<p><b>New plan making process to help councils to implement the NPSFM</b></p> <ul style="list-style-type: none"> <li>● A core FW hearings panel (FWHP)                             <ul style="list-style-type: none"> <li>- chaired by a retired EC judge</li> <li>- IHP members – legal expertise; RMA plan making; water expertise; understanding of tikanga Māori;</li> <li>- iwi rep(s);</li> <li>- elected rep(s)</li> </ul> </li> <li>● FWHP could coordinate multiple plan hearings</li> <li>● MfE/EPA provide administrative assistance</li> <li>● Hearings panel hear submissions then present recommendations to council or make final decisions</li> <li>● Merit appeals if council rejects panel recommendations</li> <li>● Appeals to HC on points of law if council accepts panel’s recommendations</li> </ul>	<p><b>Support the intent, time to notification not addressed</b> <span style="float: right;">HIGH</span></p> <ul style="list-style-type: none"> <li>● Strongly support having an Independent Hearings Panel that provides national consistency.</li> <li>● Limited pool of available retired EC judges for Chair role - expand to experienced Commissioner Chairs.</li> <li>● The streamlined planning process will speed up the plan making process from the date of notification of a proposed plan. It would not address factors that cause delay prior to this.</li> <li>● Central government should support by providing a pre-approved pool of regionally based commissioners with a comprehensive understanding of Māori values, interests and matauranga. This would assist where there are multiple iwi competing to advocate for their tribal interests as Māori commissioners.</li> <li>● Treaty settlement arrangements have been based on current RMA processes - need assurances from government that the changes to the process won’t have implications for these arrangements</li> <li>● Research needs - redirect science investment to assist in preparing science, monitoring and modelling needed to support planning processes in councils - focus on catchment accounting and other high priority themes.</li> <li>● Consider impact of water-focussed planning on unitary councils more integrated planning requirements.</li> <li>● Need science translation into robust technical evidence for planning process.</li> </ul>
<p><b>Support for councils to achieve notification by 2023</b></p> <ul style="list-style-type: none"> <li>● Additional direct, on-the-ground assistance for councils (included in budget bid)</li> <li>● Default regional environmental flows and (input) limits could be established in the plan</li> <li>● NB little detail provided</li> </ul>	<p><b>Support in principle</b> <span style="float: right;">HIGH (if targeted)</span></p> <ul style="list-style-type: none"> <li>● In some regions the complexity of the science, data engagement and planning processes are more of an issue than resource availability.</li> <li>● Support two-step process – nationwide default settings are applied followed by catchment based processes, prioritised based on water quality and ecological health risks.</li> <li>● To meet the 2023 notification deadline, councils will have to substantially reduce engagement processes in the pre-draft phase of planning, and will have to rely on more limited, less certain data, science and modelling - does government support this reduction in engagement evidence requirements underpinning plan formulation? Government could direct CRIs to make evidence available to Councils?</li> <li>● Councils would appreciate a very clear cascade of national direction priorities, and which directions have priority over others where there is inconsistency between directions.</li> <li>● How do we enable iwi involvement and, in some cases established co-governance, in the very tight timeframes for NPS-FM implementation?</li> <li>● Encourage direct engagement between central government and each regional council to determine what central support is needed to meet implementation deadlines.</li> </ul>
<p><b>A Water Commission – longer term</b></p>	<p><b>Do not support</b> <span style="float: right;">LOW</span></p> <ul style="list-style-type: none"> <li>● Little detail provided and questions about how this fits with existing institutions and roles and responsibilities.</li> <li>● Utilise OAG and PCE - specific roles re audit/oversight of councils.</li> <li>● A future Water Commission could play a role in establishing data systems, harvesting and reporting data nationally.</li> </ul>

**2019 – B – 05474 Essential Freshwater 42: Seeking agreement to national direction**

Proposal	Regional Sector Water Subgroup position
<p><b>Requirements to maintain or improve water quality in the NPSFM</b></p> <ul style="list-style-type: none"> <li>● Require regional plans to set specific, measurable and time-bound FW objectives to maintain WQ at its current state</li> <li>● Define existing FW quality</li> <li>● Set clear reporting requirements</li> <li>● Delete “overall” from Objective A2</li> </ul>	<p><b>Support clarifying “maintain water quality” but proposals may further confuse rather than clarify</b> <span style="float: right;">HIGH</span></p> <ul style="list-style-type: none"> <li>● A range of statistical issues arise through setting current state as a fixed number (less of an issue if movement within a band is allowed). Monitoring and accounting must still be relative to specified monitoring locations.</li> </ul>

	<ul style="list-style-type: none"> <li>• This policy highlights there is no contaminant “headroom” anywhere for any attribute; agree this is important for ‘holding the line’, but is likely to have significant consequences (e.g. increased costs for and controls on urban greenfield developments).</li> <li>• These proposals (along with others) point to the need for a reconsideration of the reporting framework; a separate policy proposal and assessment is needed.</li> <li>• Focus is on where we are now and where we’ve been, but doesn’t consider future projections (need robust information on land use change to understand where we are heading for WQ).</li> <li>• Need to consider impacts of climate change on “maintain and improve.”</li> <li>• Science investment could assist with standardisation of what is meant by “maintain and improve.”</li> </ul>
<p><b>Policy direction on setting limits in the NPSFM</b></p> <ul style="list-style-type: none"> <li>• Amend the NPSFM to include policies specifying what a limit seeks to achieve and the types of resource use that may be captured by limit setting</li> <li>• Clarify policy intent through additional direction on limit setting</li> <li>• Additional direction to progress limit setting in the face of uncertainty:             <ul style="list-style-type: none"> <li>- Continued investment in science and information</li> <li>- More substantive reforms of the RMA to address systemic issues that create opportunities for excessive debate and litigation</li> <li>- Restricting resource use at a national level</li> </ul> </li> </ul>	<p>Many matters require resolution before support can be given <span style="float: right;">HIGH</span></p> <ul style="list-style-type: none"> <li>• While there is uncertainty about NPSFM requirements for limit setting, some of the proposals are unworkable/do not clarify.</li> <li>• Agree with the need to progress limit setting promptly and in principle agree with central government support to progress in the face of uncertainty.</li> <li>• Agree a limit should be a restriction on resource use - not an instream measure</li> <li>• Experience shows us that the science and technical uncertainties are often front and centre in hearings and court processes as, by their nature, greater uncertainty creates space for a wider range of interpretation as to what policy settings are appropriate.</li> <li>• Support providing additional direction. In addition, policy to strengthen a precautionary approach is appropriate</li> </ul>
<p><b>Restructuring the NPSFM</b></p> <ul style="list-style-type: none"> <li>• Move substantive policy direction from definitions into the relevant parts of the NPSFM</li> <li>• Restructure existing parts, objectives and policies</li> </ul>	<p>Support proposals in principle to improve clarity <span style="float: right;">HIGH</span></p> <ul style="list-style-type: none"> <li>• Any redrafting and restructure will inevitably lead to a new round of reinterpretation and potential litigation for plan-making processes already in progress.</li> </ul>
<p><b>Implementation requirements in Part E of the NPSFM</b></p> <ul style="list-style-type: none"> <li>• Remove the ability to implement the NPSFM by 2030</li> </ul>	<p>Support the new streamlined planning proposal in principle <span style="float: right;">HIGH</span></p> <ul style="list-style-type: none"> <li>• Note that councils that have used the streamlined process have still found timeframes challenging</li> <li>• Urge policy makers to consider the experience of councils which have had the benefit of streamlined processes (Environment Canterbury, Auckland, Christchurch City)</li> <li>• To achieve implementation by 2025, faster notification (by 2023) will require some trade-off in specificity, quality/durability, tangata whenua involvement, community engagement, data collection, or evaluation.</li> <li>• This appears to represent a significant shift in government’s public participation and catchment scale planning expectations.</li> </ul>
<p><b>Remove redundant term “minimum acceptable state” in the NPSFM</b></p> <ul style="list-style-type: none"> <li>• Remove references to ‘minimum acceptable state’</li> </ul>	<p>Support in principle <span style="float: right;">HIGH</span></p> <ul style="list-style-type: none"> <li>• But note that councils may still use this reference</li> </ul>
<p><b>Providing for renewable electricity generation in the NPSFM</b></p> <ul style="list-style-type: none"> <li>• Delete Appendix 3 and amend Policy CA3 to rely on council decision making</li> <li>• <b>The 6 big hydro dams are proposed to be listed in Appendix 3</b></li> </ul>	<p>Do not support exemptions for renewable electricity generation - national significance should not remove responsibility to mitigate effects <span style="float: right;">LOW</span></p> <ul style="list-style-type: none"> <li>• Support the deletion of Appendix 3. Offset mitigation (rather than exceptions) should be provided for nationally or regionally significant infrastructure where assessment shows that national bottom lines cannot practicably be met.</li> <li>• The approach should provide for other nationally significant infrastructure (e.g. flood protection schemes, major roading networks).</li> <li>• In these instances, and like renewable electricity, offset mitigation may be the only practicable option</li> <li>• <b>Will there be a process to add other infrastructure to Appendix 3?</b></li> </ul>
<p><b>Amending the 2010 water measurement regulations to mandate real-time reporting of water use</b></p> <ul style="list-style-type: none"> <li>• Make real-time electronic reporting of water takes mandatory</li> </ul>	<p>Support in principle, noting it will achieve improved accounting and compliance data: <span style="float: right;">MEDIUM</span></p> <ul style="list-style-type: none"> <li>• Significant costs for users and councils (data capture) - coordinate/standardise efforts across councils</li> <li>• Exceptions will be necessary, e.g., where technology is not practically available in the location (issues with cellular networks), where the take is very irregular, small volume, or temporary/for a very short time.</li> </ul>

**2019 – B – 05475 Essential Freshwater: Seeking agreement to national direction proposals**

Proposal	Regional Sector Water Subgroup position
<p><b>Measures to prevent instream loss</b></p> <ul style="list-style-type: none"> <li>● Restrict piping, infilling and permanent diversion of rivers (NES)</li> <li>● Amend NPSFM to introduce policy direction on the circumstances where to councils should:                             <ul style="list-style-type: none"> <li>- require offsetting where it cannot be avoided, remedied or mitigated and compensation</li> <li>- grant a resource consent to pipe/reclaim a river bed or permanently divert a river, causing permanent loss of habitat (using s 55 RMA)</li> <li>- collate and report on information on resource consents on gains and losses in river habitat</li> </ul> </li> </ul>	<p>Support in principle but clarification is needed on a number of matters <span style="float: right;">HIGH</span></p> <ul style="list-style-type: none"> <li>● Clarify whether proposal specifically relates to urban development, or to the piping or reclamation of any river, or stream (permanent and intermittent?).</li> <li>● Clarify the rationale for using 20m as an activity status threshold for “significant loss of habitat”.</li> <li>● Clarify whether diversion which realigns but reinstates stream habitat would be captured by this regulation.</li> <li>● Policy frameworks on this matter in 2nd generation regional plans should be reviewed and considered.</li> </ul>
<p><b>Value description of Ecosystem Health in the NPSFM</b></p> <ul style="list-style-type: none"> <li>● Amend the description of the ecosystem health value in the NPSFM, to include all aspects that need to be managed to clarify that:                             <ul style="list-style-type: none"> <li>- the 5 components must all be managed – aquatic life, water quality, water quantity, habitat, ecological processes</li> <li>- the ecosystem needs to be managed in a way that is appropriate for the ecosystem type</li> <li>- a healthy ecosystem is one that is appropriate to that type of FW body, when it is in a minimally disturbed condition</li> <li>- councils need to account for a wide range of stressors and pressures that affect ecosystem health</li> </ul> </li> </ul>	<p>Supports amending the definition of ecosystem health to clearly include five aspects, noting: <span style="float: right;">HIGH</span></p> <ul style="list-style-type: none"> <li>● Support the measuring/reporting on current ecosystem health relative to a “minimally disturbed condition”.</li> <li>● Do not support the definition of ecosystem health where a freshwater ecosystem can only be healthy when it is in a minimally disturbed condition.</li> <li>● Do not support setting objectives to achieve minimally disturbed conditions everywhere – unrealistic expectation. Need to develop advice around generally acceptable/achievable levels of ecological health for rural and urban catchments.</li> <li>● Need to look at RMA purpose (s.5(2)(b)) and reconsider removing “safeguarding life supporting capacity of water and ecosystems” from the NPS.</li> </ul>
<p><b>Reporting on Ecosystem Health in the NPSFM</b></p> <ul style="list-style-type: none"> <li>● Build on existing reporting requirements in the NPSFM, as they relate to ecosystem health                             <ul style="list-style-type: none"> <li>- Report against all five components of ecosystem health (aquatic life, water quality, water quantity, habitat, ecological processes)</li> <li>- Produce annual summary report cards, including performance against all components of ecosystem health</li> <li>- Produce a synthesis report integrating the five components of ecosystem health as a single ecosystem health score at intervals &lt; 5 yearly</li> </ul> </li> </ul>	<p>The stated problem is acknowledged but there are issues to resolve: <span style="float: right;">MEDIUM</span></p> <ul style="list-style-type: none"> <li>● More work is required on a national reporting framework because of the new reporting requirements proposed through this policy and the wider package; consider role of EMaR and LAWA.</li> <li>● If the purpose is to address ecosystem health more comprehensively when implementing the NPSFM, address this through objectives and policies and seeking monitoring plans in the NPSFM, rather than prescribing methods that are not sufficiently advanced/road tested.</li> <li>● General direction for council to report on all five components, including reporting that no data is available is appropriate.</li> <li>● If central government is seeking a national overview Para 25(b) and (c), further work is required to confirm attributes and what is to be monitored and reported. These provisions are not considered appropriate at this time.</li> </ul>
<p><b>Wetlands</b></p> <ul style="list-style-type: none"> <li>- Amend the NPSFM to include national direction on avoiding wetland loss and degradation</li> <li>- Introduce an NESFM to restrict specific activities contributing to wetland loss and degradation with exceptions for nationally significant infrastructure, renewable energy and restoration activities</li> </ul>	<p>Support for including a clear objective protecting wetlands from loss and degradation. <span style="float: right;">HIGH</span></p> <ul style="list-style-type: none"> <li>● Directive policies on avoiding loss of wetlands, and for managing activities to avoid effects on functions, values or quality of natural wetlands are supported.</li> <li>● Clear provisions for the circumstances in which remedying or mitigating adverse effects may be considered are necessary, either nationally or within regional plans.</li> <li>● There are a number of challenges that need to be addressed in the development of any regulatory tool and ensuring compliance with the tool (e.g. defining and mapping, monitoring and enforcement criteria).</li> </ul>
<p><b>Proactive catchment planning</b></p> <ul style="list-style-type: none"> <li>● Require councils to undertake long term spatial catchment planning across the region before setting Freshwater Management Units. Spatial identification required of:                             <ul style="list-style-type: none"> <li>- Areas that are significant for ecosystem health, human health for recreation and other identified values, fish spawning areas, significant habitats of indigenous and exotic species, DW source protection areas, sites of cultural significance</li> <li>- Areas where ecosystem health is degraded/at significant risk</li> <li>- Areas where restoration of water bodies/changes in land use are desirable</li> </ul> </li> <li>● Direct local authorities to establish objectives and policies in regional and district plans to:                             <ul style="list-style-type: none"> <li>- Provide appropriate protection to the areas</li> <li>- Provide appropriate limits on activities described</li> <li>- Promote restoration of water bodies and changes in land use</li> </ul> </li> </ul>	<p>We do not support this proposal in its current form <span style="float: right;">LOW</span></p> <ul style="list-style-type: none"> <li>● This proposal comes as a surprise.</li> <li>● Implementation will be extremely difficult because it is not part of the initial framework of the NPSFM.</li> <li>● This requirement will necessitate a whole new planning process and be very process oriented.</li> <li>● NPSFM implementation could not be progressed until this new spatial planning process is complete.</li> <li>● Central government should clarify priorities and what realistically they expect to be delivered by 2023, and what nationally important matters will be addressed by this proposal.</li> <li>● We consider the intent of this proposal is already captured in the NPSFM objective-setting process (i.e. define spatial units, define their relevant values and uses, define objectives, set limits).</li> </ul>

<p><b>Policy direction on setting freshwater objectives and limits for flows and levels in the NPSFM</b></p> <ul style="list-style-type: none"> <li>Amend NPSFM to specify what must be included in freshwater objectives for water quantity and specify what minimum flows and allocation limits must achieve in relation to ecological health</li> </ul>	<p>The recommended changes are not supported as they are not considered necessary. <b>LOW</b></p> <ul style="list-style-type: none"> <li>Generally, it is understood that Councils are still in the process of implementing the NPSFM and that includes: <ul style="list-style-type: none"> <li>setting minimum flows for at least ecological values, using habitat retention curves for certain species;</li> <li>setting allocation limits, taking into consideration the effects on flow variability;</li> <li>considering the relationship between surface and groundwater water;</li> <li>There are genuine limitations to what more Councils can achieve at present given current data, data gaps, modelling, time and costs etc.</li> </ul> </li> </ul>
<p><b>Monitoring and responding to declining fish health</b> Amend the NPSFM to require councils to:</p> <ul style="list-style-type: none"> <li>monitor fish health in wadeable rivers (as a minimum), using measures of diversity and relative abundance.</li> <li>assess possible degradation relative to a minimally disturbed reference state, and publically report (as per the proposed direction on ecosystem health reporting).</li> <li>prepare and implement action plans when monitoring indicates fish health is in a poor state, or is declining.</li> </ul>	<p>The subgroup does not support this proposal at this time, while acknowledging that fish diversity and abundance is generally not well monitored or understood. <b>MEDIUM</b></p> <ul style="list-style-type: none"> <li>We do not have sufficient evidence to consider the fish IBI as suitable for use as an attribute in national direction now.</li> <li>Consider less prescription. Instead establish intent through objectives and policies, and strengthen general direction to monitor and report.</li> <li>Consider redirecting science investment towards this with a view to preparing more comprehensive national or regional plan provisions in the future.</li> </ul>
<p><b>Include a threatened species value in the NPSFM</b></p> <ul style="list-style-type: none"> <li>Amend the NPSFM to include a new national value for threatened species</li> </ul>	<p>Support the specific recognition of habitats of threatened or declining species. <b>LOW</b></p> <ul style="list-style-type: none"> <li>Note there are substantial tensions to resolve between needs of these species, introduced sports fisheries and water use values.</li> </ul>
<p><b>Wider application of the dissolved oxygen attribute in the NPSFM</b></p> <ul style="list-style-type: none"> <li>Apply the existing dissolved oxygen attribute and national bottom line to all fresh water (not just below point sources)</li> </ul>	<p>This proposal is supported in principle, however there are a number of matters to resolve: <b>MEDIUM</b></p> <ul style="list-style-type: none"> <li>These policies create a monitoring requirement that comes with a cost burden for councils.</li> <li>DO monitoring is probably not necessary in all water bodies or FMUs, and should be carefully targeted.</li> <li>Baseline information for DO in natural lowland systems is sparse - concern that DO attribute designed for some stream/river types and associated species will be inappropriate/unachievable in lowland systems.</li> <li>Perhaps more appropriate as a multistressor indicator to be monitored (similar to MCI) vs an attribute.</li> <li>Current science gap linking management actions to DO improvements - in limit-setting context.</li> </ul>
<p><b>Managing sediment in the NPSFM</b></p> <ul style="list-style-type: none"> <li>Introduce a suspended sediment attribute</li> <li>Introduce a requirement to monitor deposited sediment and develop action plans to respond to declining trends or low indicator scores</li> </ul>	<p>In principle, the subgroup supports active recognition of sediment attributes in the NPSFM. <b>HIGH</b></p> <ul style="list-style-type: none"> <li>Appropriately target monitoring requirements as they will increase cost burden for some regional councils.</li> <li>The classification system - 12 classes seems very complicated.</li> <li>Strengthen policy direction to monitor, report on, and manage sediment, but be less prescriptive about methods.</li> <li>Support applying a monitoring plan requirement for deposited sediment similar to that for MCI.</li> <li>Question the use of turbidity vs clarity, or direct measures (e.g., TSS).</li> </ul>
<p><b>Policy direction on fish passage in the NPSFM</b></p> <ul style="list-style-type: none"> <li>Require councils to include ecological objectives for diversity and abundance of fish in an FMU, catchment or sub-catchment</li> <li>Require new structures to achieve ecological objectives for fish, and meet minimum design standards.</li> <li>Require councils to maintain records of structures and prioritise mitigation</li> </ul>	<p>These proposals are supported in principle, subject to reviewing the detail. <b>MEDIUM</b></p> <ul style="list-style-type: none"> <li>There is a high implementation cost burden.</li> <li>Consider that, in some cases enabling fish passage may increase risk of spreading sports fish and pest fish that can have adverse effects on native populations.</li> </ul>
<p><b>Direction to territorial authorities to support integrated management</b></p> <ul style="list-style-type: none"> <li>Add policies to the NPSFM clarifying that Territorial Authorities have responsibility to for contributing to the integrated management of freshwater and the use and development of land.</li> </ul>	<p>Support in principle <b>HIGH</b></p> <ul style="list-style-type: none"> <li>Agree there is potential to improve urban freshwater outcomes by ensuring they are appropriately provided for through district planning processes for new urban development and redevelopment of land</li> <li>May require changes to the RMA and NPSFM - needs to carefully integrate and not duplicate regional and district functions and plans.</li> </ul>
<p><b>Dissolved Inorganic Nitrogen (DIN) and Dissolved Reactive Phosphorus (DRP) attributes</b></p> <ul style="list-style-type: none"> <li>Nutrient attributes to enable better management of the Ecosystem Health value</li> <li>A table for nutrients for ecosystem health</li> <li>Proposed DIN and DRP attributes will apply to all rivers</li> </ul>	<p>Strongly oppose the proposals as they stand <b>LOW</b></p> <ul style="list-style-type: none"> <li>There is concern the weight of evidence to support the proposals is not robust</li> <li>Most intensively farmed areas of Waikato, Taranaki, Canterbury and Southland will fall in the D band for DIN and large areas of the North Island, Canterbury, Otago and Southland will fall into D band for DRP</li> </ul>

	<ul style="list-style-type: none"> <li>• Significant reductions in DIN and DRP will be required to lift waterways out of D band (as required by NPS-FM). This would be worthwhile if we had confidence that Ecosystem Health will improve as a result of nutrient reductions (all else being equal), but we don't.</li> <li>• The fundamental premise of the proposals is there is a direct and causative link between nutrient levels and macroinvertebrate communities (i.e reductions in N &amp; P will result in predictable improvements in indicators such as the Macroinvertebrate Community Index).</li> <li>• There is a significant body of research in New Zealand that has identified drivers of Ecosystem Health. This body of research does not support the premise of the proposals.</li> <li>• Environmental drivers of macroinvertebrate communities are complex. Robust predictive models do exist in several regions (e.g. Waikato, Horizons) and these tend to identify flow, habitat and sediment as the key drivers. In most cases, nutrients are of secondary importance for macroinvertebrate measures of Ecosystem Health, (but are more important for periphyton).</li> <li>• An alternative approach that is more scientifically defensible is to use the existing N-toxicity and periphyton attributes to establish more stringent levels of Ecosystem Health protection. The note beneath the Periphyton attribute table (NPSFM, Page 34) sets appropriate direction for regional councils about setting DIN and DRP exceedance criteria. However, it is inappropriately placed in the NPSFM as a policy direction.</li> <li>• Support the approach given in guidance in the NPSFM for periphyton. Also support regional councils developing nutrient criteria for achieving periphyton attribute states. Concern that proposing an attribute relating to specific N&amp;P for periphyton may drive a national set of numbers. Research shows that regional models are more robust than a national model.</li> </ul>
<p><b>Higher water quality for swimming, taking into account seasonal differences</b></p> <ul style="list-style-type: none"> <li>• Add a new E. coli attribute table using the Excellent, Good and Fair bands from the 2003 Microbial Water quality Guidelines as the A, B and C bands.</li> <li>• Apply these new requirements at Primary Contact Sites during bathing season, i.e., a higher standard in places where people swim.</li> <li>• Retain current E. coli attribute table as well and apply this to all other lakes and rivers throughout the year.</li> <li>• Retain requirement to improve water quality everywhere in terms of E. coli.</li> </ul>	<p><b>Support the proposal</b> <span style="float: right;">HIGH</span></p> <p>Agree the “bar will be higher in places where people swim” and that summer bathing water quality monitoring at popular bathing sites is appropriate.</p> <ul style="list-style-type: none"> <li>• From a communications perspective, having two attribute tables for <i>E. coli</i> is going to be confusing. Due consideration should be given to making the system less confusing for the general public.</li> <li>• Reviewing the 2003 guidelines should be brought forward and ideally done first (prior to amendments to the NPSFM), given the E. coli attribute tables are based on these guidelines, and implementation will have costs.</li> <li>• This work is critical as technology, data and knowledge have improved significantly since the original microbiological water quality guidelines were created, bringing the reliability of the guidelines into question.</li> <li>• Request amendment to part (a) of the the definition of primary contact site, to enable councils to determine which locations they monitor in a specified river or lake (particularly necessary where there are many swimming spots on specified river or lake).</li> </ul>
<p><b>Nitrogen allocation discussion document</b></p> <p><b>General principles:</b></p> <ul style="list-style-type: none"> <li>• Principles are set ought to be used to guide decision-making about design of an effective nitrogen allocation system</li> <li>• Discussion document discusses prerequisites and transit on requirements for an effective allocation system.</li> <li>• Discussion document accepts that changing the freshwater allocation system so that it can better take into account the cumulative impact of activities will take time. The transition from where we are now to a new approach needs to be well managed to ensure it is fair</li> <li>• Government will need to work with regional councils, sector groups and training providers to ensure that capacity and capability are built.</li> </ul>	<p><b>Support in principle for a Nutrient Allocation System</b> <span style="float: right;">TBD</span></p> <ul style="list-style-type: none"> <li>• In principle we support a Nutrient Allocation System/framework as part of a package of initiatives for improving management of NZ's freshwater resources. This could streamline one of the the most difficult aspects of nitrogen management and reduction.</li> <li>• We consider it is essential that Māori rights and interests in freshwater are accommodated and resolved by the Crown before rolling-out a Nutrient Allocation System.</li> <li>• A policy intervention as significant as this must have a robust underlying rationale. At present there are several unsubstantiated and challengeable statements in the document, particularly relating to “fairness”, “equity” and “efficiency”. Concern that particular predispositions appear to dominate and may be interfering with objective analysis.</li> </ul>

<ul style="list-style-type: none"><li>• Government considers that within a catchment there would also be different levels of obligation depending on the risk of the land use</li><li>• Nutrient Allocation System needs to allow land users to adapt and adjust to variety of changing circumstances and allow entry of new users in an equitable way.</li><li>• Discussion document clearly does not prefer grandparenting – the term grandparenting is defined as allocating based on existing land use and leaching rates, but requires good management practice.</li></ul>	<ul style="list-style-type: none"><li>• Support the concept of a set of principles to guide the design of an effective nitrogen allocation system - further work is required to actually guide core issue at hand: the basis for allocation of the scarce resource within any nitrogen limit that has been set.</li><li>• There are numerous implications for regional councils and we will be looking to have a focused discussion soon on the proposal and provide detailed feedback</li></ul>
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## TE KĀHUI WAI MĀORI

### Comments to Minister Parker and other lead Ministers on New Farm Environment Plan Option in Essential Freshwater Discussion Document

*Te Kāhui Wai Māori requests that this response is delivered to Minister Parker, Minister O'Connor and all other lead Ministers being consulted on the Discussion Document.*

#### INTRODUCTION

##### Background

1. At 12pm on 30 July 2019 all advisory groups, including Te Kāhui Wai Māori, received the latest version of the Essential Freshwater Discussion Document. This included a late addition of a new farm environment plan (**FEP**) option (Option 2 below) to the Discussion Document, together with a briefing to Ministers from the Ministry for Primary Industries (**MPI Briefing**).<sup>1</sup>
2. We understand that:
  - (a) Option 2 has been included following Ministerial feedback, and reflects a focus on managing the potential impact on the farming sector;
  - (b) the option is still being developed, and is likely to change further.
3. A request was made for feedback by 4pm on 2 August 2019.

##### Timing and process

4. Te Kāhui Wai Māori has previously raised concerns about the lack of adequate time to review, understand and comment on the documents provided for feedback. Option 2 is no exception. We stand by the comments in this paper, while recognising that a turnaround of four days (which includes a briefing from MPI officials on the day our feedback is due) is inadequate to properly analyse Option 2, and is highly unsatisfactory.
5. Te Kāhui Wai Māori is also frustrated and gravely concerned that MPI has taken a lead role in the development of Option 2. There has been robust discussion on the role of FEPs between all the advisory groups and officials, including the Integrated Advisory Group (**IAG**). MPI was involved in those discussions and will be aware that options very similar to Option 2 were robustly considered and roundly rejected by the IAG. Attempting to resurrect this option in this way shows great contempt for the Ministerial Advisory Groups. We understand and accept Te Kāhui Wai Māori and other advisory groups do not have a final decision making or veto role over government decisions. However the last minute way this option has been presented undermines the ability of the advisory groups to respond effectively.

<sup>1</sup> MPI, Preliminary advice on mandatory freshwater farm environment plan feasibility dated 18 July 2019.

## Actions contrary to Te Mana o te Wai

6. It appears that Option 2 has arisen out of a concern for managing the potential impact on the farming sector. Placing the impact on the farming sector ahead of environmental sustainability runs completely contrary to Te Mana o te Wai. Te Kāhui Wai Māori acknowledges and supports the role of primary industries in the New Zealand economy, including the significant contribution from the Māori primary industries sector. However, Te Mana o the Wai embeds environmental sustainability as the overriding focus, and all subsequent actions need to be taken with that as the foremost consideration.

## TE KĀHUI WAI MĀORI STATEMENT OF POSITION ON FEPs

7. Te Kāhui Wai Māori agrees with the Freshwater Leaders' Group that:<sup>2</sup>
- (a) FEPs, noting FLG prefer the term Land Environment Plans<sup>3</sup> should be mandatory and the requirements for them should be developed using a risk-based approach, using the catchment or the sub-catchment as the basis for assessing risk.
  - (b) However, FEPs **should not** be used as a tool to ensure regulatory compliance. They can only be used as a tool to assist farmers comply with limits and regulations set by central and/or local government. They cannot be used to set limits for environmental performance in their own right as is proposed in Option 2.
  - (c) A regulatory focus on FEPs, ahead of setting catchment limits and allocation mechanisms being established, risks individual enterprises making poor decisions.

## COMMENTS ON DISCUSSION DOCUMENT

8. The two options for farm planning now identified in the Discussion Document, as we understand them, are:
- (a) Option 1: National level regulation with mandatory freshwater modules, where farm plans are adopted - Within this option, where farm plans are adopted, mandatory freshwater modules are proposed that would integrate with existing farm planning tools, resource consents, and regional plan rules.<sup>4</sup> (Note that this is our interpretation of Option 1, as the way that it is set out is unclear.)
  - (b) Option 2: Farm-level risk management plans - A new regulatory regime based on mandatory, enforceable farm plans.<sup>5</sup>
9. Beyond this, there is little explanation about these options in the Discussion Document, and no clear explanation of the differences or overlap between the two options. Significant additional drafting is required to confirm the detail of these options so that the public is clear

<sup>2</sup> First Report of the Freshwater Leaders' Group, April 2019 (**FLG Report**), pgs 6-7 & 22-23.

<sup>3</sup> FLG Report, pg 6, footnote 1.

<sup>4</sup> Essential Freshwater Draft Discussion Document (draft Monday 29), received 30 July 2019, p 55.

<sup>5</sup> Discussion Document, p 56.

about the two options and their differences. There is also a lack of clarity around the expectation that industry organisations will provide plans to assist with the mandatory freshwater module.

10. We also recommend a wire diagram that demonstrates the difference between the options.

#### **COMMENTS ON MPI BRIEFING – OPTION 2**

11. Reviewing the MPI Briefing, Te Kāhui Wai Māori understands that Option 2 involves<sup>6</sup>
- (a) Mandatory FEPs that include a freshwater module, with national direction on minimum requirements for the content of these FEPs.
  - (b) Building on those minimum requirements, farmers / growers would then develop a risk based plan that is tailored to their particular property. All farmers and growers above a minimum size being required to secure the services of a 'suitably qualified and experienced practitioner' (SQEP) to work in close cooperation to develop a tailored FEP for their particular operation.
  - (c) Farms would then be audited against their compliance with that plan.
12. We understand that the proposal is that these FEPs are to be used as the primary tool for improving water-related farm practice. In effect, this delegates Council regulatory powers to private SQEP, with responsibility for creating mandatory, enforceable farm plans.
13. Te Kāhui Wai Māori does not support Option 2.
- (a) FEPs alone, will not deliver sufficient change to address the decline in our freshwater resources and give effect to Te Mana o Te Wai.
  - (b) Options 2 has the potential to lead to perverse outcomes like farmers taking a minimalist approach in their environmental planning; and
  - (c) the compliance costs will be much higher than stated in the MPI Briefing;
14. There is also no specific analysis on the impact on the Māori farming sector.

#### **Failure to give effect to Te Mana o Te Wai**

15. There remains a lack of evidence that FEPs will deliver the change necessary to improve Te Mana o Te Wai.
16. Farm plans can only operate effectively where robust objectives, limits and rules have been set by central and local government through the suite of national and regional planning tools. Once these objectives, limits and rules have been set, SQEP can work with the farm to ensure they meet their obligations. Without objectives, limits and rules set by Government

<sup>6</sup>MPI Briefing, p 1 (bullet 3), p 4 (bullets 10 & 11).

or Councils, farm plans will become the default regulation and there is no assurance they will give effect to Te Mana o Te Wai.

17. Nor does the MPI Briefing include any detailed assessment on this point.
18. This is our most fundamental issue with Option 2.

### **Incentivising perverse outcomes**

19. The experience of Kāhui Members who have been involved in planning processes seeking to use FEPs (including Environment Bay of Plenty's Plan Change 10 and Waikato Regional Council's Plan Change 1) shows that rather than drive practice change on-farm to improve environmental outcomes, farmers will resist bureaucratic interference compelling them to farm to a plan that can be used to monitor and regulate their performance on a broad scale.
20. However, farmers do respond well to an assessment of their farms that demonstrates how they can increase performance to meet environmental limits and promotes them to work with advisors to develop a plan that can be implemented over time.

### **Cost impacts**

21. MPI has provided preliminary analysis on the cost of developing an FEP and an FEP audit.
22. MPI's preliminary cost analysis to develop an FEP is grossly understated and suggests a lack of first-hand experience with the development of FEPs created to date. This process cannot be completed for \$3,500.<sup>7</sup> A more accurate estimate would be somewhere between \$5,000 for a simple farm and up to \$10,000 for more complex systems. However, the lack of a clear purpose and objectives of the FEP means that a minimum process could be adopted to produce outputs that do little to drive the change that is needed. The work required includes:
  - (a) Spatial farm map including farm boundaries, fence lines and water reticulation, plus soils, topography and land use capability layers at a minimum. Most farmers have farm maps in hard copy. These have limited use in designing plans to implement change in farm systems and land utilisation.
  - (b) Identification of high risk or critical source areas (CSAs) including erosion prone sites, soil damage from overstocking, areas where stock should be excluded included riparian planting.
  - (c) An Overseer file to provide a base line environmental profile of all emissions.
  - (d) A farm system model (using Farmax or a similar tool) to show system mitigation options and implementation/management plans, in response to nutrient, sediment or pathogen limits.

<sup>7</sup> MPI Briefing, p 5 (bullet 17).

- (e) Land use change modelling based on land suitability and infrastructure access for alternative production systems including forestry, horticulture and other uses.
  - (f) Detailed plans and farmer support including extension and training to implement the plans.
23. There is also a lack of clarity on the outputs of the mandatory FEP along with industry environmental plans and the role of regional councils in the implementation of rules and regulations in producing points (a) to (f) above.
24. As there is no clarity around the purpose and outputs of proposed the FEPs, we cannot comment as to whether the FEP Audit figure of \$1,500 is sufficiently robust.
25. Despite the driver for Option 2 being a focus on managing the potential impact on the farming sector, the reality is that it is likely to come with significant costs.

### Impact on Māori farming sector

26. Nothing in the analysis provided to date gives Te Kāhui Wai Māori the confidence that MPI has the capability to understand how Māori-owned, administered and/or operated farms will be affected.
27. Māori-owned, administered and/or operated farms are more likely to work collaboratively to address catchment water quality problems where they are involved in defining water quality and designing solutions at a rohe and catchment level.
28. Māori involvement in industry bodies (such as DairyNZ, Fonterra, Horticulture NZ, and Beef and Lamb) has historically been low, and this is unlikely to change in the future. Instead, the Government needs to work with Māori sector leaders like the Federation of Māori Authorities to understand FEP implementation issues for Māori-owned, administered and/or operated farms.

### FURTHER ADVICE

29. The MPI Report refers to Ministers being provided with further advice on an FEP based system **in early August 2019**, including: its relationship to the RMA, Treaty implications, competencies and central oversight of SQEPs, data management, dispute resolution, compliance and enforcement.<sup>8</sup>
30. Te Kāhui Wai Māori expects to receive that advice at the earliest opportunity, in order to ensure we can advise Ministers of our views on these matters.

<sup>8</sup> MPI Briefing, p 2 (bullet 3).

12 August 2019

Honourable Minister David Parker  
Parliament Buildings  
Private Bag 18041  
**WELLINGTON 6160**

Tēnā koe e te Minita,

### **ESSENTIAL FRESHWATER PACKAGE**

1. As you are aware, Te Kāhui Wai Māori has been engaging with your Ministry for the Environment officials on a range of policy matters in the Essential Freshwater Work Programme, key elements of which are:
  - (a) ensuring Te Mana o te Wai is the central framework for freshwater management in Aotearoa, including by embedding it in the National Policy Statement for Freshwater Management (**NPS-FM**);
  - (b) including a mahinga kai compulsory value within the NPS-FM; and
  - (c) the wider issue of addressing Māori rights, interests and obligations in freshwater.
2. This letter sets out our position on these matters, responding to the *Action for healthy waterways* Discussion Document as at 9 August 2019.

### **Mahinga kai compulsory value**

3. Te Kāhui Wai Māori is pleased to see the Discussion Document reflect the Government's support of Te Kāhui Wai Māori's proposed mahinga kai compulsory value (Proposal 1).
4. We understand that previous advice to you from officials had incorrectly identified that, were Proposal 1 to be implemented, the mahinga kai compulsory value would apply in every water body with significant associated costs, as opposed to tangata whenua identified sites or water bodies in every Freshwater Management Unit (**FMU**).
5. After an explanation from Te Kāhui Wai Māori Members on 29 July, officials have since agreed that their prior advice to you was incorrect. We are concerned that this misunderstanding persisted for so long, as we are aware that it had a bearing on the (incorrect) costs advice you received on the mahinga kai compulsory value.
6. Inclusion of the mahinga kai compulsory value within the NPS-FM is a bottom line issue for Te Kāhui Wai Māori.

### **Embedding Te Mana o te Wai within the NPS-FM**

7. We have received your officials advice to you on Te Kāhui Wai Māori's recommended changes to the NPS-FM (Essential Freshwater 68).
8. Te Kāhui Wai Māori disagrees with many of the conclusions in Essential Freshwater 68. Despite our requests for confirmation that officials have conducted robust legal analysis that ensures the implementation of the current proposed draft NPS-FM provisions (to be released for public consultation) will meet the policy intent, we understand that no such analysis has been conducted.
9. We have continued to find engagement with your officials on the NPS-FM frustrating and difficult. Their approach to engaging with Kāhui Wai Māori on the NPS meant we were only able to commence a clear and transparent conversation with officials on 17 July.
10. Consequently, while Kāhui Wai Māori acknowledges the Government's commitment to embedding Te Mana o te Wai in the proposals in this package, we do not consider that the draft NPS-FM proposed for release with this Discussion Document yet achieves that aim.
11. As at today's date, we remain at odds with your officials on how Te Mana o te Wai is embedded within the NPS-FM. Until such time as the wording is strengthened to our satisfaction, we do not support the proposed draft NPS-FM.

### *Mātauranga Māori policies*

12. Te Kāhui Wai Māori understands that you have directed your officials not to proceed with incorporating mātauranga Māori policies in the NPS-FM additional to those carried across from the 2017 NPS-FM. Accordingly, they are not in the current draft NPS-FM.
13. Te Kāhui Wai Māori wishes to understand your rationale for this decision so that we can address your concerns.
14. We continue to believe that the inclusion of mātauranga Māori policies is critical to embedding Te Mana o te Wai within the NPS-FM.

### **Māori rights, interests and obligations**

15. Addressing Māori rights, interests and obligations in fresh water remains a bottom line for Te Kāhui Wai Māori.
16. In releasing the Discussion Document for public consultation, we ask that the Government reserve Māori rights, interests and obligations, including by confirming that actions taken in the interim shall not derogate from full and considered resolution, and commit to a timeframe for resolution.

**Next steps**

17. Unless we can get clarity on the above matters, Te Kāhui Wai Māori will be unlikely to support the consultation process on the Discussion Document.
18. We ask that you consider this letter, and advise to what extent, if any, the issues raised can be addressed for inclusion in the Discussion Document.
19. As always we are happy to work with officials on this process.

I roto i ngā mihi,  
**Te Kāhui Wai Māori**



Kingi Smiler  
**Chairperson**

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