

20-D-01284

9(2)(a)

Dear 9(2)(a)

Thank you for your email of 9 July 2020 requesting the following under the Official Information Act 1982 (the Act):

All advice provided to Ministers in relation to the Manapouri Power Scheme, national grid upgrades and Tiwai Smelter

And your clarification of 23 July 2020:

There exists a very good argument for returning a small amount of water to the Waiau River from the Manapouri Power Scheme to protect the ecological health of the River. Yet the Government continues to promulgate regulations and defend statutes that preclude that, and weaken what little regulatory protection there was for the River. What I am trying to understand is, what is the other side of the argument, more than just the generic and high level rhetoric about hydro being an important tool in the face of climate change, and the international bragging rights of having 85% renewable energy. Perhaps the high level rhetoric is all that exists, and no one has looked into it further, but if they have, if there has been compelling advice received by the Minister in relation to this issue, in the broad sense in which I couched my request, that is what I would like to see.

The Ministry for the Environment has identified two documents in scope of your request, as listed in the attached document schedule. Some information has been provided to you as an excerpt, in line with section 16(1)(e) of the Act:

16(1) Where the information requested by any person is comprised in a document, that information may be made available:

(e) by giving an excerpt or summary of the contents.

Advice provided to the Minister for the Environment, the Minister of Agriculture and the Minister of Energy and Resources regarding the Manapouri Hydro Scheme and Waiau River is in relation to the exceptions framework in the National Policy Statement for Freshwater Management (NPS-FM).

Under the National Policy Statement for Renewable Energy Generation (NPS-REG), regional councils are required to have regard to the 90% renewable energy target by 2025. To address the potential impact of national bottom lines on the operation of existing infrastructure, the NPS-FM enables regional councils to set a target attribute state below national bottom lines for Schemes listed in clause 3.31 of the NPS-FM 2020, if conditions are met.

It is important to note that, where this exception applies, regional councils must still set the target attribute state to achieve an improved attribute state to the extent practicable. Regional councils will also be required to go through the process of setting target attribute states in their regional plans in consultation with their communities, which will be subject to the standard evaluation requirements of the Resource Management Act 1991.

In your request, you note your interest in advice provided beyond renewable energy considerations. While advice provided to Ministers has been focused on this issue, there is also related advice around the risk of security of electricity supply contained in the documents that may be of interest to you.

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 its website at: 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 [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: ministerials@mfe.govt.nz.

Yours sincerely



Hayden Johnston
Director, Water and Land Use Policy

Document schedule

No.	Date	Content	Decision	OIA Section/s applied
1	10 July 2020	2020-B-06981: Action for healthy waterways: exposure draft feedback	Release extract	16(1)(e)
2	3 October 2018	2018-B-04940: Essential Freshwater 10: Exceptions to National Bottom Lines	Released in full	N/A

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Collated extract from 2020-B-06981: Action for healthy waterways: exposure draft feedback

From Action for healthy waterways: exposure draft feedback

Hydro-generation

14. We are considering the provisions relating to hydro-generation in light of the closure of Tiwai Point. We consider that Manapouri will remain of critical importance to NZ's hydro storage and generation capacity. The scale of storage at Manapouri also makes it very important to maintaining security of supply. At this stage, we consider that it would be appropriate for Manapouri to remain in the NPS-FM exceptions framework at this time.

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Essential Freshwater 10: Exceptions to National Bottom Lines

 			
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Date Submitted:	3 October 2018	MfE Tracking #: 18-B-04940 MPI Tracking #: B18-0774
Security Level:	In confidence	MfE Priority: Non-Urgent

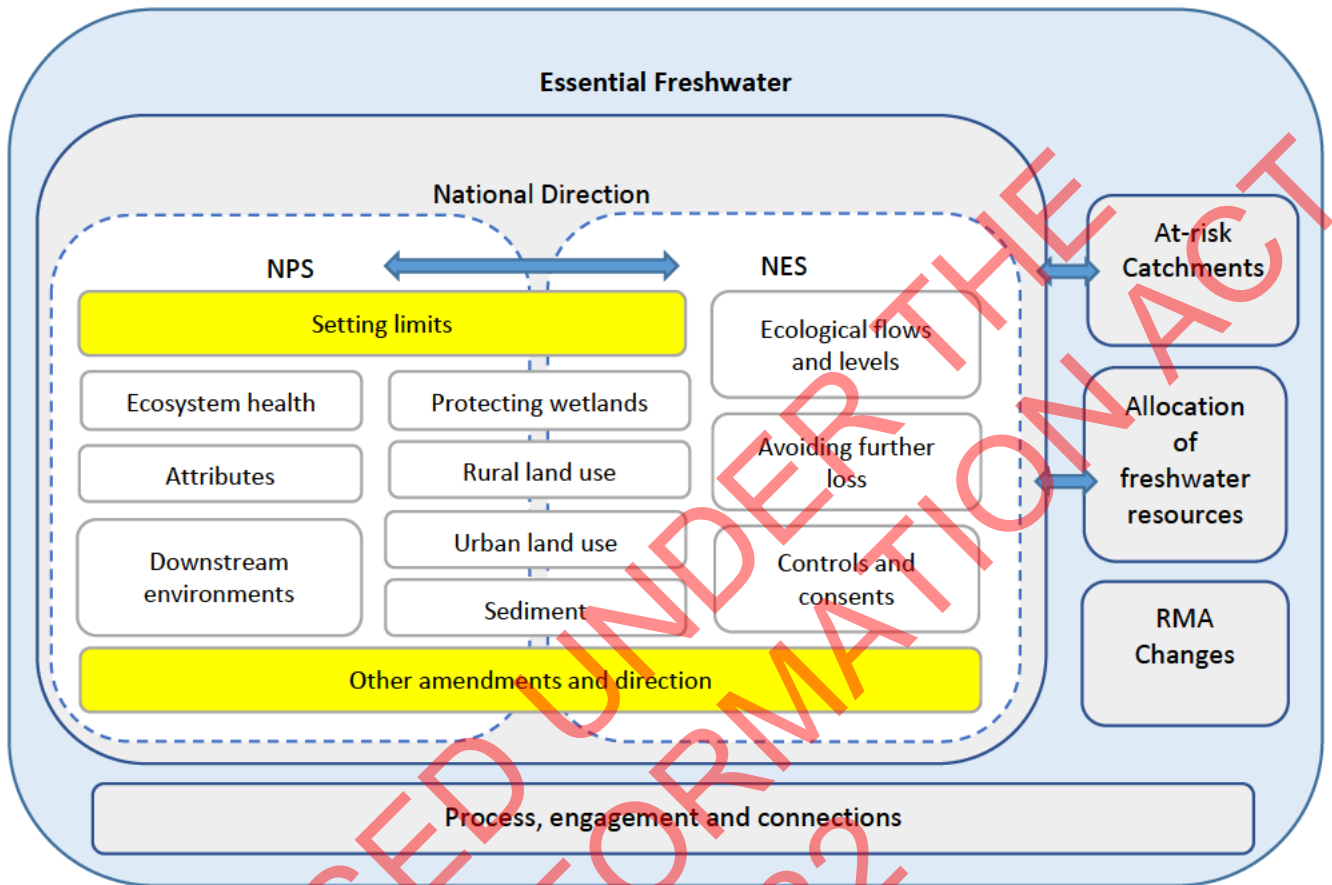
	Action sought:	Response by:
To Hon David Parker, Minister for the Environment	Agreement	23 October
To Hon Damien O'Connor, Minister of Agriculture	Noting	N/A
Cc Hon Nanaia Mahuta, Associate Minister for the Environment	Noting	N/A
Cc Hon Dr Megan Woods, Minister of Energy and Resources	Noting	N/A

Actions for Minister's Office Staff	Return the signed report to the Ministry for the Environment
Number of Attachments	Nil
Note any feedback on the quality of the report	

Ministry for the Environment contacts

Position	Name	Cell phone	1 st contact
Responsible Manager	Jo Burton	021 141 8196	
Director	Martin Workman	022 517 3268	✓

Essential Freshwater 10: Exceptions to National Bottom Lines



Key Messages

1. This briefing provides you with potential options for how to deal with exceptions to national bottom lines under the National Policy Statement for Freshwater Management 2014 (the Freshwater NPS). It seeks your approval to provide the range of options to Kahui Wai Māori, the Freshwater Leaders Group, the Regional Council working group and hydro-generators as we develop them further.

The Exceptions Framework

2. The Freshwater NPS requires councils to set 'freshwater objectives' in their regional plans which describe the desired water quality state they must work towards achieving. For attributes specified in Appendix 2 of the Freshwater NPS, councils must set their freshwater objectives at or above 'national bottom lines' which set out the minimum acceptable state nationally.
3. The Freshwater NPS contains two mechanisms that allow regional councils to set freshwater objectives below national bottom lines in certain circumstances:
 - a) If regional councils cannot plan to achieve national bottom line/s, Policy CA4 of the Freshwater NPS allows them to set a freshwater objective or objectives below a national bottom line on a transitional basis (the water body must be listed in Appendix 4 of the Freshwater NPS, along with the transitional period); or
 - b) If the quality of a water body is below a national bottom line because of naturally

occurring processes or the existence of infrastructure (e.g. a hydroelectric dam), Policy CA3 allows them to set a freshwater objective below a national bottom line (the infrastructure must be listed in Appendix 3 of the Freshwater NPS).

4. Appendices 3 and 4 have never been populated, meaning that regional councils are not able to set freshwater objectives below national bottom lines.

The Problem

5. The feasibility of achieving national bottom lines in some degraded freshwater bodies is uncertain because some regional councils cannot:
 - a) show that changes in resource use will sufficiently improve water quality; or
 - b) achieve the national bottom line without potentially reducing the amount of renewable electricity produced by a hydroelectric scheme.
6. Appendix 3 is currently empty. Infrastructure that could potentially be listed in Appendix 3 includes hydro-generation schemes, water supply dams, irrigation schemes and flood control schemes. However, the most interest in listing infrastructure in Appendix 3 has come from owners of hydro-generation schemes.
7. Water bodies containing infrastructure listed in Appendix 3 are not automatically exempted from meeting national bottom lines – it just means that councils can consider whether to do so at the same time they consider how to implement the other requirements of the Freshwater NPS.
8. Because Appendix 3 is empty, no regional council is able to set freshwater objectives below a national bottom line in a water body affected by infrastructure; even if it is in the national interest for a regional council to do this. Generators have expressed concerns that they may be held responsible for mitigating water quality issues they consider are caused by other parties.
9. Appendix 4 is also empty. This means that no regional council may set a transitional objective for a water body where they are unable to demonstrate that changes in resource use will, over time, improve water quality above national bottom lines.

Options

10. Should you wish to consider amending the Freshwater NPS to address this uncertainty, we consider that the options available to you are:
 - Option A: Populate both Appendices. Include a list of infrastructure in Appendix 3 (either all hydroelectric generation or a subset), and include a list of water bodies unable to demonstrate a pathway toward meeting national bottom lines in Appendix 4.
 - Option B: Remove Appendix 3 and Policy CA3 (infrastructure exceptions) altogether and rely on Policy CA4 and Appendix 4 (transitional exceptions). Hydroelectric schemes could be listed for the lifetime of the scheme.
 - Option C: Provide for transitional exceptions only and provide regional councils with the ability to set their own transitional objectives without approval from central government (removing policy CA3, Appendices 3 and 4 and amending policy CA4).
11. For all options, regional councils must still manage their water bodies to at least maintain their water quality, in terms of ecosystem health, and improve water quality in terms of its effect on human health for recreation.
12. Should you choose to amend the Freshwater NPS, based on our current analysis, our recommended approach is Option B.

Timing

13. Both Options A and B will require the population of appendices with either listed infrastructure or freshwater management units. The creation of these lists will require detailed consultation with various stakeholders. This work has begun and will continue through the Essential Freshwater consultation process in 2019.
14. Taking no action will mean that the current uncertainty will continue. However, due to the contentious nature of this area, and the careful balancing act between; renewable electricity generation; what is reasonable for resource users; and the policy intent of the Freshwater NPS, you may wish to address exceptions during a subsequent round of amendments to the Freshwater NPS – at which stage regional planning will be further developed and the actual need for exceptions better understood.

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Recommendations

15. We recommend that you:

- a. **Note** that there are at least three options for the use and treatment of exceptions to national bottom lines, all of which require amendment of the Freshwater NPS
- b. **Note** that officials will continue to work on options for exceptions to national bottom lines

Either

- c. **Agree** for officials to consult with Kahui Wai Māori, the Freshwater Leaders Group, the Regional Council working group and hydro-generators on the following options:
 - i. Populate both Appendices;
 - ii. Remove Appendix 3 and Policy CA3 altogether (infrastructure) and rely on Policy CA4 and Appendix 4 (transitional exceptions); or
 - iii. Provide for transitional exceptions only and provide regional councils with the ability to set their own transitional objectives without approval from central government.

Agree/Disagree

Or

- d. **Agree** to continue to progress work towards resolving the uncertainty with an aim to resolve the issue (including potentially populated lists of exempted infrastructure and/or waterbodies) through a future round of amendments to the Freshwater NPS.

Agree/Disagree

Signature

Martin Workman
Director, Water

Hon David Parker
Minister for the Environment

Date

Essential Freshwater 10: Exceptions to National Bottom Lines

Context

Legislative and policy context

16. The Resource Management Act 1991 (the RMA) sets out that persons exercising functions and powers under it – in this case through national policy statements – shall “have particular regard to the benefits to be derived from the use and development of renewable energy” as well as the “maintenance and enhancement of the quality of the environment”.
17. Two pieces of national direction are relevant to this policy area: the National Policy Statement for Renewable Electricity Generation (the NPSREG), and the Freshwater NPS.
18. Regional councils must give effect to the objectives and policies of national policy statements in their regional policy statements and regional plans.¹ There is no hierarchy between national policy statements. Resource consents are granted to resource users in a manner that is consistent with the objectives, policies and rules of the regional plans.

The NPSREG

19. The NPSREG sets out a target of 90% of renewable electricity by 2025 and requires regional councils to have particular regard for this target and the operation of hydro-generation in their regional plans.² The Government has also indicated its intention to move towards 100 per cent renewable electricity by 2035.

The Freshwater NPS

20. The Freshwater NPS requires regional councils to set freshwater objectives in their regional plans for all the freshwater bodies of their region.³ Freshwater objectives are the desired state of a water body, defined using measurable attributes, e.g. nitrogen levels. For eight attributes that are defined in the Freshwater NPS, freshwater objectives must be set above a certain level, described as a ‘national bottom line’.

The ‘exceptions provisions’: Policy CA3 and Appendix 3

21. To address the potential impact of ‘national bottom lines’ on the operation of existing infrastructure, Policy CA3 of the Freshwater NPS enables regional councils to set freshwater objectives below national bottom lines if current water quality is already below national bottom lines:
 - a) As a result of naturally occurring processes; or
 - b) Existing significant infrastructure (that was operational on 1 August 2014) contributes to the existing freshwater quality; and
 - i. it is necessary to realise the benefits provided by the listed infrastructure, e.g. renewable electricity; and
 - ii. it applies only to the water body, water bodies, or part of a water body where the listed infrastructure contributes to the existing water quality.
22. In order for the infrastructure ‘exception’ to apply, the infrastructure must be listed in Appendix 3 of the Freshwater NPS. Appendix 3 was introduced in 2014 empty, and was not populated in 2017 when the Freshwater NPS was subsequently amended.

¹ Resource Management Act, s67(3)(a)

² National Policy Statement for Renewable Electricity Generation 2011, Policy B(c)

³ National Policy Statement for Freshwater Management 2014, Policy CA2(e)

23. Having infrastructure listed in Appendix 3 does not exempt regional councils from implementing the objectives and policies of the Freshwater NPS in the water bodies in which the infrastructure is located. For example, regional councils are still required to maintain or improve the overall water quality.
24. A listing in Appendix 3 expands the breadth of potential freshwater objectives for water bodies that have degraded water quality and existing infrastructure contributes to that quality. It means that for these water bodies, a freshwater objective could be set at a point between the existing water quality and the national bottom line. If the water body in which the listed infrastructure is located has existing water quality that is at or above national bottom lines, then a regional council cannot establish freshwater objectives below a national bottom line.
25. A listing in Appendix 3 does not guarantee a freshwater objective is set below national bottom lines. The discretion of where freshwater objectives are set remains with regional councils.
26. The Freshwater NPS also requires regional councils to monitor the macroinvertebrate community index (MCI) and improve on low scores or declining trends in the MCI score unless the score is caused by infrastructure listed in Appendix 3.

Significantly degraded water bodies

27. Policy CA4 was introduced into the Freshwater NPS in 2014 to address concerns that in some particularly degraded water bodies regional councils simply could not demonstrate how changes in resource use would result in water quality that meets national bottom lines.

Te Waihora/ Lake Ellesmere

28. The regional plan change for Selwyn Te Waihora (adopted in February 2016) will drive improvements to the water quality of Lake Ellesmere/Te Waihora but not to a level that meets the national bottom lines for nutrients. Environment Canterbury did not quantify the costs of what would be needed to achieve the national bottom lines for Te Waihora because their assessment showed that there were no feasible means of improving water quality to that extent.
29. The Resource Management Act requires Environment Canterbury to evaluate the effectiveness of its current approach in 2021 (five years after its rules became operative). At that time, the governance partners for Te Waihora (Environment Canterbury, Te Rūnanga o Ngāi Tahu and Selwyn District Council) will have better information to determine if their assumptions about the difficulty of improving the water quality in the lake still apply, and whether the costs are as prohibitive as they currently appear to be.
30. If evidence demonstrates that it is not possible to further improve water quality in Ellesmere/Te Waihora, the governance partners may seek to have it listed in Appendix 4 of the Freshwater NPS, enabling the creation of a transitional objective below a national bottom line. Once the time period for that transitional objective has been met, Environment Canterbury would set a new objective above national bottom lines or could seek to extend the timeframe for the water body in Appendix 4.

Problem definition

31. The feasibility of achieving national bottom lines in some degraded freshwater bodies is uncertain because some regional councils cannot:
 - demonstrate that changes in resource use will sufficiently improve water quality; or
 - achieve the national bottom line without potentially reducing the amount of renewable electricity produced by a hydroelectric scheme.

Hydroelectric infrastructure

32. Electricity demand is expected to increase in the coming decades as the transport and manufacturing sectors move away from fossil fuels and policies are implemented to meet the Government's goal of carbon neutrality by 2050. Transpower have forecast that electricity demand will double by 2050.
33. A regional plan change that gives effect to the Freshwater NPS may affect New Zealand's hydro-generation capacity and therefore its security of electricity supply. However, regional councils must also give effect to the policies and objectives of the NPSREG – which encourages regional councils to ensure the security of hydroelectricity generation. Because Appendix 3 is empty, no regional council is able to set freshwater objectives below a national bottom line in a water body affected by infrastructure; even if it is in the national interest for a regional council to do this.
34. Ultimately regional plans affect the operation of hydro infrastructure through conditions on their permit to take, divert and discharge water – for example, by requiring additional releases of water to flush algae or provide for recreation.
35. The resource consents for the six largest hydroelectricity schemes (which together produce approximately 89% of New Zealand's hydroelectricity) expire in the following years:
 - a) Waitaki – 2025
 - b) Manapouri – 2031
 - c) Waikaremoana – 2032
 - d) Tongariro – 2039
 - e) Waikato – 2041
 - f) Clutha – 2042
36. We do not expect rule changes to become operative in the next 12 months that could lead to a review of the resource consent conditions of any of the six hydro-generation schemes identified above.
37. One view is that the risk to security of supply in the next two years of not populating Appendix 3 is low because these consents have six to 24 years to run, however, the Ministry of Business, Innovation and Employment (MBIE) have the view that not populating Appendix 3 poses a threat now to hydro-generation, in particular for rivers that are currently involved in regional plan hearings.
38. Planning processes establish the rule and allocation framework for the re-consenting of hydro-generation schemes. For example, with the Manapouri Scheme, the current planning process will commence in the Environment Court in next six to 12 months and must interpret the Freshwater NPS, as it stands with the current uncertainty in the exceptions framework.⁴

Consequences for hydro-generation

39. The consequences of new resource consent conditions (e.g. more restrictive take allowances or minimum flow requirements) being imposed because of new freshwater objectives will vary according to their severity and extent.
40. Modelling⁵ undertaken for the Ministry for the Environment and MBIE in 2015 suggested that small changes would affect generators' flexibility and operations, resulting in revenue shifts

⁴ Once a regional plan is operative resource consents can be reviewed prior to their expiry in order to ensure compliance with a regional plan.

⁵ Assessment of the Impact of Flow Alterations on Electricity Generation, Energy Modelling Consultants Ltd, 2015

between generators, but were otherwise unlikely to affect New Zealand's security of electricity supply.

41. However, the modelling indicated that changes which materially alter water allocation for one or more generator schemes would increase the risk of water spill (lost energy), significantly increase the security of supply risk in dry years, and would increase energy costs for end consumers.
42. The modelling carried out in 2015 reflected the supply and demand balance at the time. Since 2015 the country's generation security has reduced with the closure of Otahuhu, Southdown and half of Huntly; collectively removing around 1000MW of generation. Consequently, the risk of reduced hydro-generation is now greater.
43. In addition, significant reductions in hydro-generation will have consequences for New Zealand's transition towards 100 per cent renewable electricity generation and would in the short term lead to higher emissions through increased thermal generation to compensate. In the longer term a likely result is higher prices for end consumers as replacement generation is built.

Risks to security of electricity supply

44. The magnitude of the risk to New Zealand's security of electricity supply will be unknown until regional councils have fully implemented the Freshwater NPS. However, modelling previously undertaken on behalf of the Ministry for the Environment and the MBIE has indicated substantial risk to New Zealand's security of electricity supply if hydroelectric inflows are materially affected.
45. In the short-term, we do not consider the risk to New Zealand's security of electricity supply presented by an empty Appendix 3 is high, due to the long timeframe before councils will set freshwater objectives impacting on infrastructure.
46. MBIE's position is that because Appendix 3 is unpopulated, the risk to security of supply is higher than necessary, and that Appendix 3 should be either populated or removed. By remaining unpopulated MBIE believes this creates unnecessary uncertainty in a time when the Government is trying to remove barriers and encourage the increased uptake of renewable electricity generation. MBIE's strongly held view is that if Appendix 3 is removed and transitional exceptions under Appendix 4 are relied upon, then the NPSREG needs to be strengthened to give greater weighting to renewable electricity (thereby providing hydroelectric infrastructure with greater national level recognition).

Options

47. We consider that the ongoing uncertainty created by the existing unpopulated exceptions framework could be addressed by one of the following options:
 - a) Option A: Populate both Appendices 3 and 4. Include a list of infrastructure in Appendix 3 (which either includes all hydroelectricity generation or a subset), and include a list in Appendix 4 with freshwater management units unable to demonstrate a pathway towards meeting national bottom lines.
 - b) Option B: Remove Appendix 3 and Policy CA3 altogether and rely on transitional objectives under Appendix 4.
 - c) Option C: Remove Appendix 3, Policy CA3 and Appendix 4 and amend Policy CA4 to provide regional councils with the ability to set their own transitional objectives below national bottom lines without approval from central government (subject to criteria).
48. If you choose to do nothing, then the uncertainty around how and whether exceptions will be

able to be used will continue. However, we also consider that you may want to wait until regional planning has progressed further enabling you to make a better informed decision on what an exceptions framework under the Freshwater NPS should look like. The creation of actual lists of infrastructure and water bodies for the appendices will be an intensive and time-consuming process. Furthermore, any lists will likely continue to be amended as the compliance date for the Freshwater NPS approaches and more regional councils seek to make use of exceptions.

Option A: Populate both Appendices 3 and 4. Include a list of infrastructure in Appendix 3, and a list of freshwater management units in Appendix 4

49. Under this option, the Government would amend the Freshwater NPS to include a list of infrastructure in Appendix 3 and a list of water bodies unable to meet national bottom lines in Appendix 4.
50. Options for the Appendix 3 listing include: listing all hydro-generation infrastructure; listing some infrastructure; or providing a general definition of hydro infrastructure and including all infrastructure meeting that definition. Listing a subset of hydro-generation infrastructure would involve making value judgements about relative importance that would risk distorting a competitive market. Listing all hydro-generation infrastructure would mean that potentially a large percentage of water bodies could be eligible for exemption from the national bottom lines, although this would be contingent on existing water quality being below national bottom lines and regional councils electing to maintain or improve water quality below national bottom lines.
51. Developing a subset of hydro-generation infrastructure for listing in Appendix 3 could be based on factors such as generation capacity, regional planning processes, competition considerations and existing water quality information.
52. A list for Appendix 4 would be worked up on a case-by-case basis with regional councils that have identified problematic water bodies.

Option B: Remove Appendix 3 and Policy CA3 altogether and rely on transitional objectives under Appendix 4

53. This option would see Policy CA3 and Appendix 3 removed from the Freshwater NPS. If a regional council considers that national bottom lines in a particular waterbody cannot be met due to significant infrastructure or for other reasons, they may apply to the Government to have the water body listed in Appendix 4.
54. Appendix 4 and Policy CA4 provide a mechanism that allows for a regional council to set a freshwater objective below a national bottom line for a particular fresh water body for a set period of time.
55. The benefit of the use of Appendix 4 is that it better aligns with the policy intent of the Freshwater NPS – that regional councils should strive to meet national bottom lines in all water bodies across New Zealand. If a time period listed in Appendix 4 is going to expire and the regional council still cannot establish a pathway towards meeting a national bottom line for the water body, the regional council may apply to relist the water body with a new timeframe. The timeframe could be set to align with the lifetime of the hydroelectric infrastructure.
56. Removing Appendix 3 would remove the Government's ability to signal to regional councils that certain pieces of infrastructure are nationally important over and above the existing NPSREG and the requirements of the RMA.

Option C: Rely solely only on transitional objectives and provide regional councils with the ability to set their own transitional objectives below national bottom lines without approval from central government

57. This option would remove the Government's role in addressing the impact of the Freshwater NPS on significant infrastructure. Appendix 3 and Policy CA3 would be removed. Appendix 4 would also be removed and Policy CA4 would be amended to clarify that regional councils are able to establish freshwater objectives below national bottom lines for a set period of time if they are unable to demonstrate a pathway towards achieving national bottom lines within a fixed timeframe.
58. This option could mean that a large number of water bodies could be eligible for exemption from national bottom lines, potentially leading to worse environmental outcomes. This risk only applies where existing water quality is below a national bottom line and the regional council chooses to maintain or improve water quality below that national bottom line.

An alternative approach to timing

59. Both Options A and B will require the population of appendices with either listed infrastructure or freshwater management units. The creation of these lists will require detailed consultation with stakeholders. This work is ongoing.
60. We recognise that, due to the contentious nature of this area, and the careful balancing act between; renewable electricity generation; what is reasonable for resource users; and the policy intent of the Freshwater NPS, you may wish to address exceptions during a subsequent round of amendments to the Freshwater NPS – at which stage regional planning will be further developed and the actual need for exceptions better understood. For these reasons, you may want to consider aiming to resolve this issue through a future round of amendments to the Freshwater NPS.

Consultation and Collaboration

61. This paper has been prepared by officials from the Water Taskforce. MBIE was consulted.
62. Past discussions with representatives of several hydro-generators, including Meridian, Genesis and Mercury, about options for addressing exceptions in the Freshwater NPS have helped inform the content of this briefing.

Risks

Sub-optimal use of hydro-generation infrastructure

63. Failure to populate Appendix 3 heightens the risk that infrastructure owners may face tighter water allocation, use and flow restrictions as part of resource consent conditions and be forced into a sub-optimal operation of their infrastructure. A possible consequence of this is a risk to New Zealand's security of electricity supply. The proposed options do not fully eliminate this risk because a listing in Appendix 3 does not require a council to set freshwater objectives below national bottom lines in water bodies where the listed infrastructure is located; it only provides this as an option. This risk can be mitigated by addressing this policy issue.

Impact on market competition

64. Market competition concerns arise if the Government were to decide to list some but not all hydro-generation schemes in Appendix 3. This could give rise to the perception the Government is favouring some generators at the cost of others. Following statutory consultation requirements will mitigate this risk and provide the market an opportunity to adjust to the possibility of a populated Appendix 3 for electricity providers who are fully or

partly owned by private interests.

Hydro-generators generate negative publicity about the impact of the Freshwater NPS

65. Hydro-generators consider they have been awaiting a decision on populating Appendix 3 for a considerable time and find themselves facing increased risks as regional plan reviews are underway. There is a risk that they will generate negative publicity about the Freshwater NPS and its impact on New Zealand's security of electricity supply.
66. To mitigate this risk, we recommend officials continue to work closely with generators as we develop options for addressing exceptions to the Freshwater NPS.

Legal

67. Each option will have associated legal implications that will be addressed in more detail in future advice.

Financial implications

68. If the current absence of listings in Appendix 3 results in further restrictions on generators' operations in the future when resource consents are renewed, reductions in electricity supply could result. Significant reductions in hydro-generation will have consequences for New Zealand's security of electricity supply, which may result in more volatility in the electricity price in the short term and higher long term prices as new generation is built as a replacement. Both outcomes will be detrimental to end consumers' interests.
69. If no transitional exceptions are provided for in Appendix 4, some catchments may have to undergo extensive land use change to meet national bottom lines. This would have an impact on our primary industries.

Next Steps

70. Officials will continue to explore these options and will present them to Kahui Wai Māori, the Regional Council working group, the Freshwater Leaders Group, and hydro-generators.