

Weekly Update

Hon Nanaia Mahuta, Associate Minister for the Environment

For the week starting 15 June 2020

Environment weekly meeting Monday 15 June 4.30-5.00pm

Attendees: Hon Nanaia Mahuta, Associate Minister for the Environment

Janine Smith, Deputy Secretary, Natural and Built System

Liz Moncrieff, Director, Natural and Built System

Lillian Fougere, Project Lead, NPSIB, Department of Conservation

Adrian Young, Manager, Natural and Built System

Matthew Barbati-Ross, Manager, Natural and Built System

	Agenda Item	Lead	Paper / verbal update	Mins
1	Discuss Weekly Update	Liz Moncrieff	Verbal update	10
2	Wastewater National Environment Standard	Adrian Young	Verbal update	10

Released under the provision of the Official Information Act 1982

1. Updates for noting

1.1. Update on the proposed amendments to the National Environmental Standards for Air Quality (NESAQ)

Report back to Cabinet Environment, Energy and Climate Committee (ENV) on final policy proposals

The Cabinet Minute of Decision *National Environmental Standards for Air Quality: Particulate Matter and Mercury Emissions: Release of Discussion Document* [CAB-20-MIN-0052], notes that Cabinet “invited the Associate Minister for the Environment (Hon Nanaia Mahuta) to report back to ENV in August 2020 with final policy proposals following the consultation”. Due to COVID-19 impacting the timeline for progressing the NES-AQ amendments, including extending the public consultation to 31 July 2020, the report back date is no longer appropriate. Your office is working with the Cabinet Office to move the report back date to later in the year. We will let you know when this is confirmed.

Public consultation and engagement activities

We held online workshops with the National Air Quality Working Group (regional council air quality scientists and planners) in May, and are following this up with a hui with the Regional Council Policy Special Interest Group this month.

We are phoning iwi and Māori in areas where the mauri of air is diminished to gauge their interest in discussing the proposed amendments, and to arrange dates for online hui from mid-June to mid-July. These phone calls follow letters sent to iwi in February that notified the proposed amendments and invited indications of interest in discussions.

We are also working with your office to set up a hui via Zoom with representatives of the Whareroa marae community in Tauranga (likely early July), to discuss ongoing air quality issues relating to Port of Tauranga and industrial activities. Ministry officials visited the Whareroa marae community in early 2019 and February 2020. We committed to further engagement on the local air quality issues, as well as the proposed amendments. You agreed to meet (online) with community representatives and we understand your office is currently awaiting a response from them.

To date we have received 21 written submissions on the proposed amendments. The majority of submissions support the proposals in part. We intend to brief you in late August on feedback received.

Ministry research on COVID-19 lockdown air quality

The Ministry’s data and science team is researching environmental impacts of the COVID-19 lockdown across New Zealand – with an initial project focus on air quality impacts. The aim of the project is to undertake a national analysis of air quality (across various monitored parameters including PM₁₀, PM_{2.5}, nitrogen dioxide, sulphur dioxide and ozone) before, during, and after the alert Level 4 lockdown. The results will likely be available by the end of 2020. We anticipate insights about monitoring processes, data collection, and behaviours that influence air quality could inform the proposals to amend the NESAQ.

1.2. Release of the Urban Water Working Group's Report

In a previous briefing note to you (2020-B-06663) we noted that the Urban Water Working Group's report is finalised and the Group has approved its release.

At the Official's meeting next week we would like to discuss the release of the Urban Water Working Group's Phase 2 report with you. We would like to discuss the following options:

- Option 1:
You release a press statement in the next two to three weeks acknowledging the receipt of the report. We will work with your office to identify opportunities for you to talk about the report and the Government's response in the coming months.
- Option 2:
You acknowledge the receipt of the report and the Government's response at an urban water related event/site visit in the coming months. We can work with your office to identify these opportunities.

1.3. Update on working with Papa Pounamu during policy development

Following your meeting with Jade Wakaira and James Whetu, representing Papa Pounamu (a collective network of technical resource management experts with Māori and Pacific people perspectives), we have followed up with Jade Wakaira to explore further what this could look like in practice.

As a network of practitioners, they are keen to understand the strategic opportunities to be involved in the work of the Ministry. We will continue to explore these options as part of a broader project the Ministry is doing to keep improving our engagement with Maori during policy development. We note we have regularly sought out individuals from Papa Pounamu to be part of Maori expert advice groups in a number of recent policy projects.

1.4. Aotearoa New Zealand Biodiversity Strategy

The new Aotearoa New Zealand Biodiversity Strategy (NZBS) being developed by the Department of Conservation (DOC) is currently undergoing inter-agency review. The NZBS is a national level document which will provide strategic direction for biodiversity in New Zealand for the next 30 years. It is closely connected to, and will guide, local and regional biodiversity action. The National Policy Statement for Indigenous Biodiversity (NPSIB) will be one of the important tools ensuring that action on biodiversity, and outcomes sought in the NZBS, are realised.

The Ministry will be providing agency feedback on the NZBS before the strategy is circulated again for Ministerial consultation. In particular, we will address its relationship with the NPSIB. Minister Eugenie Sage intends to take the final strategy to ENV on Thursday July 23 before taking it to Cabinet on Monday 27 July. The new strategy is to be finalised before the September election.

1.5. Update on communicating National Policy Statement for Indigenous Biodiversity (NPSIB) timeframes externally

Officials are starting to communicate the new indicative timeframes for finalising the NPSIB and developing an implementation support package with Treaty Partners, councils, the Biodiversity Collaborative Group and stakeholders. Once key conversations have been had, we will send an update to all submitters and update the Ministry's webpage.

We have developed the following key messages and are adapting appropriately for each relationship and communication channel. Please advise us should you wish for further advice or communications support.

Key messages

- Associate Minister for Environment Nanaia Mahuta has agreed to extend the timeframe of the delivery of the proposed National Policy Statement for Indigenous Biodiversity to April 2021
- this would allow officials to explore options for developing an implementation plan, which may involve a reference group and/or local level testing or pilots.

Supporting messages

- prior to the COVID-19 pandemic, officials were working towards finalising the policy for Ministerial consideration mid-2020
- when New Zealand went into self-isolation, the Ministry reprioritised its work programme to free up resources to support the immediate policy response to COVID-19 and the medium-term recovery plan.
- consultation on the proposed policy statement closed in March and officials are currently working through the volume of more than 7000 submissions received, and related policy analysis to address what has been raised
- through public consultation earlier this year, we heard strong messages from all parties that implementation support will be key in achieving the desired outcomes of the policy statement
- the benefit of a longer timeframe to finalise the NPSIB is that officials can work on an implementation support plan.

1.6. Auckland Council Emergency Budget

Auckland Council are currently consulting on its revised Emergency Budget to address their revenue shortfall resulting from the COVID-19 lockdown in New Zealand and international recession. Council are projecting lost revenue to be over \$500 million by the end of 2021. This is due to dividends from council owned shares in assets like Auckland Airport, lost revenue from community facilities during lockdown and the projected loss of public transport fares and parking.

Depending on the level of rates increase agreed, council are predicting that service levels for community facilities and public transport would still be reduced in the best case scenario (a 3.5 per cent rates increase). At 2.5 per cent rates increase, some community facilities could be permanently closed and there would be deferrals of investment capital investment. At a 1.5 per cent rates increase, debt limits may be exceeded over the medium term, which may lead to higher borrowing cost, less access to funding, and a higher debt burden for future ratepayers.

Auckland Council is reporting the need for across the board redundancies that may affect its ability to implement Ministry work programmes including urban water, waste and national direction. Reduced council activity at the local level, higher transport fares and further delays to transport investment could adversely affect Auckland's carbon emissions in the near-term.

Local authorities across New Zealand are reporting significant revenue loss and are considering reduced staff numbers as one method for recouping this loss. We will continue to monitor the situation and will report back any impacts on the Ministry work programme.

Officials are continuing their discussions with local authorities to maintain our relationships and will continue to look for opportunities to provide support for local authorities' activities that promote environmental outcomes.

1.7. Information on Watercare's approach to managing drinking water demand in Auckland

You have requested further information on Watercare's approach to managing drinking water demand in Auckland in light of Watercare's request for new consents to abstract additional water from the Waikato River. We have addressed each of your questions below.

Consideration of climate change impacts on Auckland's drinking water supply

Watercare has identified that Climate Change will likely lead to greater demand as well as a more unstable supply of water in the Auckland region. The combined factors of limited water sources, drought conditions, and population growth, have meant that Watercare has become more reliant on the Waikato River for drinking water. Mayor Phil Goff has recently stated that Auckland will need to increase their water supply resilience, beyond taking additional Waikato River water. For example, he suggested incentivising use of roof rainwater for gardens, upgrading water from the Māngere Treatment Plant, and desalination and reducing water loss through leakage. Some commentators have also questioned the extent to which Auckland could have better managed this water shortage.

Water use education programmes

Watercare has implemented several initiatives for more efficient water use for residential and non-residential users. This includes a free water audit for households, advice about rainwater harvesting and greywater use, and providing information to consumers on household water use.

In response to the recent drought, Watercare ran a public education campaign that provided advice to Aucklanders about how to use water more wisely. The combined impact of the campaign and the COVID-19 lockdown saw water use drop substantially. However, restrictions still had to be introduced on 16 May 2020.

Non-residential water use

While over half of Auckland's water is used by households, non-residential use accounts for around 25 per cent. During the period of 2012-2016, this percentage remained reasonably constant. The vast majority of non-residential users (approximately 85 per cent), use less than 2000 litres of water per day while less than 1.5 per cent use more than 15,000 litres per day.

Use of greywater systems

Greywater reuse systems are still rare in Auckland, possibly because installation requires a building consent. Watercare provides technical guidance to residents wanting to install a rainwater system. While customers are keen for a subsidy, the financial incentive for installation is currently limited to a reduction in water use. Watercare notes that optimising water use, through programmes such as greywater reuse and rainwater collection, have public health and liability risks, and that a robust regulatory framework is needed. Any programme would need to carefully consider the exact use of the water and ensure that the infrastructure is fit-for-purpose.

2. Cabinet material for proactive release (30 working days after confirmation by Cabinet)

Paper title and number	What this paper covers	Date confirmed by Cabinet	Date sent to your office	Status of paper	Date due for proactive release	Date published
2019-C-06170 Approval to release discussion document - amendments to National Environmental Standard for Air Quality: particulate matter and mercury emissions	This paper seeks Cabinet approval for consultation on amendments to the National Environment Standard for Air Quality.	24 February CAB-20-MIN-0052	9 June	With office for review	TBC	TBC

3. Cabinet material we have been consulted on

Paper title	Agency	Committee and date due	Risk/issue/opportunity	MfE comments
Improving the allocation and transfer process provided in the Māori Commercial Aquaculture Claims Settlement Act 2004	MPI	DEV 8 April	This paper seeks Cabinet approval to amend the Act that enables settlement under regional agreements between iwi and the Crown. In some cases, some iwi of a region refuse to enter the negotiations, or the court cannot resolve disputes raised in the negotiation. In these cases, the Trustee can still receive the settlement assets but cannot currently transfer them to any of the iwi. The amendment enables the assets to be transferred to iwi who claim them.	The Ministry supports the paper to enable settlement assets to be transferred to iwi who claim the assets within a reasonable timeframe. Iwi submitters and the Trustee (Te Ohu Kai Moana Limited) also support the amendment.

Paper title	Agency	Committee and date due	Risk/issue/opportunity	MfE comments
Facilitation of Christ Church Cathedral Reinstatement	DPMC	DEV 29 April	<p>The paper seeks Cabinet's approval to draft an Order in Council (OiC) under the Christ Church Cathedral Reinstatement Act 2017.</p> <p>The proposal would substitute for the normal resource consent processes under district and regional plans an expedited process that removes local agency discretion and curtails public notification and appeals. The activities that would ordinarily be discretionary activities under the existing plans include the removal of a heritage-scheduled war memorial and three scheduled heritage trees. The proposal also suggests unspecified overrides to any discretionary consents under the NES-Contaminated Soil.</p>	<p>The Ministry broadly supports the use of an OiC to facilitate the reinstatement works, as was envisioned in the Christ Church Cathedral Reinstatement Act 2017.</p> <p>We made comment about the need to ensure adverse impacts to Cathedral Square were considered and remedied in the OiC in the drafting stage, as well as the need to provide for public participation and coordination with the local authorities. These comments were largely taken on board.</p>

Released under the Official Information Act 1982

Paper title	Agency	Committee and date due	Risk/issue/opportunity	MfE comments
Revision of the Hector's and Maui Dolphin Threat Management Plan – the Management of Non-Fishing Threats	DOC	ENV 4 June	<p>This paper notes the changes being made to address non-fishing threats to Hector's and Maui Dolphin following recent consultation.</p> <p>The visions, goals, and population outcomes central to the Hector's and Maui Dolphin Threat Management Plan has been updated by the Minister of Conservation and Minister of Fisheries. The Department of Conservation has been instructed to develop and action a Toxoplasmosis Action Plan.</p> <p>The Ministers of Energy and Resources, Fisheries, Transport, and Conservation have consented to extensions of the West Coast North Island and the Bank Peninsula Marine Mammal Sanctuaries. Within these sanctuaries, seismic surveying and seabed mining will be prohibited (with some exemptions). Pending support from the Minister of Energy and Resources, seabed mining will also be prohibited within the Te Rohe o Te Whānau Puha Whale Sanctuary (Kaikōura). These changes will be gazetted and subject to a 28-day period for public comment.</p>	The Ministry is supportive of the non-fishing measures being taken to protect these nationally critical and nationally vulnerable species.
Framework to accelerate progress towards accessibility in New Zealand	MSD	SWC 17 June	This paper seeks Cabinet approval to officials progressing further work on details of a new legislative framework to accelerate accessibility and so achieve better social and economic outcomes for disabled people and other New Zealanders. This work will inform a complete policy proposal to be presented to Cabinet in May 2021.	The Ministry has no particular concerns with the proposal.

Released under the Official Information Act 1982

Paper title	Agency	Committee and date due	Risk/issue/opportunity	MfE comments
Proposed Government Response to the Public inquiry into the Earthquake Commission Proposal	TSY	DEV 29 June	<p>This paper seeks Cabinet agreement to the proposed Government response to the report and recommendations of the Public Inquiry (the Inquiry) into the Earthquake Commission (EQC), presented to the House on 9 April 2020. There are 70 recommendations. Several pose big picture questions that extend beyond EQC's current mandate.</p> <p>The Ministry specifically input into the proposed responses to three recommendations:</p> <ul style="list-style-type: none"> • 1.1.2 (Clarify expectations with EQC about its responsibility in land-use planning before, and for the coordination of land remediation after, a natural disaster) • 6.4.1 (Consider changes to relevant legislation to enable greater availability and use of information about land and its stability to inform land-use decision making and current and prospective property owners through appropriate public information sources), and • 6.4.2 (Consider granting EQC standing to appear in formal land-use planning hearings). <p>There are opportunities to align implementation of the recommendations with current Ministry work on national adaptation planning and with topics under consideration by the review panel; e.g., climate change adaptation and spatial planning.</p>	<p>The Ministry supports proactive natural hazard risk information being given to development decision-makers.</p> <p>The Ministry supports acceptance of Recommendation 1.1.2, and acceptance in principle of recommendations 6.4.1 and 6.4.2 with further consideration of the mechanisms for delivery.</p> <p>Note that the proposal of formal standing for EQC in land-use planning hearings may not be the most effective mechanism for delivery, that several avenues are already open to EQC to advise on risk, and that the current work in national adaptation planning and the resource management review may offer opportunities for giving effect to recommendations.</p>

Released under the Official Information Act 1982

Paper title	Agency	Committee and date due	Risk/issue/opportunity	MfE comments
Draft Cabinet paper- Strengthening decommissioning requirements and expanding enforcement tools under the Crown Minerals Act 1991.	MBIE	DEV June (TBC)	MBIE provided the Ministry with a draft Cabinet paper (due with your office from 12 May onwards) which seeks to strengthen decommissioning requirements and expand enforcement tools under the Crown Minerals Act 1991 to avoid operators defaulting on their decommissioning obligations.	The Ministry supports strengthening the regime and agree with many of the proposals within the paper, including that the regulator should have powers to conduct regular financial capability assessments in a flexible and case-by-case approach. The Ministry agree that better enforcement and compliance measures are necessary to strengthen the regime. However, the Ministry did question whether some of the proposed penalties were sufficient to achieve the purpose set out in the paper. The Ministry also consider the paper needs to make the connection to the decommissioning regulations under the EEZ Act clearer, given both are part of a wider regime seeking to strengthen decommissioning.
Dam Safety Regulations: Policy Decisions	MBIE	DEV 1 July	s 9(2)(f)(iv) [Redacted]	[Redacted]

Released under the provisions of the Official Information Act 1982

Paper title	Agency	Committee and date due	Risk/issue/opportunity	MfE comments
Refreshed monitoring approach of Te Puni Kōkiri	TPK	MCR TBC	This paper reports on the implementation of the refreshed monitoring approach of Te Puni Kōkiri.	The Ministry supports a monitoring approach that increases transparency in state sector performance for Māori. We agree the state sector must draw on evidence of what works for Māori and whānau, and at the same time be prepared to innovate, and partner with Māori.
Substantial Alterations: Amendments to Earthquake-prone Buildings Regulations	MBIE	LEG TBC	This paper proposes to change the definition of a 'substantial' alteration to an earthquake prone building, to add a minimum dollar value of \$150,000, as the previous definition (25% of the building's dollar value) had a disproportionate impact on provincial and small towns with low value properties.	The Ministry is comfortable with the proposal and had no comments on this paper.
Consultation on discussion document for Crown Minerals Act review and Minerals and Petroleum Strategy	MBIE	DEV TBC	<p>Marine risk & liability: policy development for decommissioning offshore oil and gas installations is out of scope. MBIE intends this to be a separate programme.</p> <p>Mining policies are inconsistent for offshore and onshore areas of conservation value. MBIE has not addressed this issue or indicated that it will be reviewing permit processes for benthic protection areas.</p> <p>Onshore risk & liability: the discussion document does not test policy settings for the long term liability for abandoned onshore wells.</p>	<p>The Ministry broadly supports the strategy and discussion document. We consider that the review scope should include:</p> <ul style="list-style-type: none"> residual liability for offshore oil and infrastructure mining restrictions in benthic protection areas <p>Greater liability for longer term cost, clean up and prosecution of future sites should be placed with industry rather than relying on the taxpayer-funded contaminated sites remediation fund. We have largely been providing technical advice to MBIE on compliance and enforcement issues such as setting penalties, court functions and other regulatory mechanisms. Engagement with MBIE is ongoing.</p>

Released under the Official Information Act 1982

Paper title	Agency	Committee and date due	Risk/issue/opportunity	MfE comments
New form for determination applications under new building emergency management powers, and updated form to modernise current determination applications	MBIE	LEG TBC	The Building Amendment Act 2019 will implement a new system to improve the management of buildings that are damaged or at risk of damage after an emergency event. This paper seeks authorisation to give effect to policy decisions made in that Act regarding applications for determinations, and also makes minor and technical updates to the Building (Forms) Regulations 2004.	The Ministry is comfortable with the proposal and had no comments on this paper.
Report back on proactive release of Cabinet material policy	SSC	GOV TBC	The paper notes that the policy is still embedding but already producing results with regard to the number of papers released. s 9(2)(f)(iv)	The Ministry supports the paper and has been involved in cross agency discussions on the proposed reporting regime.
New Zealand's financial security regime for offshore installations- Proposed amendments to Marine Protection Rules	MoT	DEV TBC	This noting paper reports back to Cabinet on the outcomes of public consultation on proposed amendments to Marine Protection Rules Part 102 and 131. The changes strengthen the offshore financial security regime for offshore installations which includes increasing the maximum limit of insurance to \$1.2 billion and introducing a new scaled insurance framework with costs proportionate to the risk posed.	The Ministry broadly supports the changes that have been made since consultation in April. s 9(2)(g)

Released under the Official Information Act 1982

Paper title	Agency	Committee and date due	Risk/issue/opportunity	MfE comments
Building Consent Exemptions in Schedule 1 of the Building Act 2004	MBIE	DEV TBC	This paper proposes amendments to Schedule 1 of the Building Act 2004 to include 12 additional exemptions for minor and low risk building work from the Building Consent process. The exemptions include short span bridges, carports, single storey detached pole sheds and hay barns, solar array panels, veranda, awnings, single storey detached buildings, pipe support structures and flexible water bladders. Guidance to TA's would also be updated.	The Ministry is comfortable with this paper and has provided comments to the MBIE.
Data and Statistics Legislation: Paper 1 – Overview of policy decisions Paper 2 - Official statistics system Paper 3 – Research and Analysis Paper 4 – Obligations and sanctions	Statistics NZ	GOV TBC	New data and statistics legislation will: <ul style="list-style-type: none"> • modernise roles and responsibilities for the Minister and Government Statistician • recognise the Māori-Crown relationship and what this means for Māori data and statistics • acknowledge the role and responsibilities other agencies play in collecting and sharing data for production of official statistics • recognise the variety of data sources for official statistics (surveys, administrative data, other data sources) • enable Statistics NZ to continue sharing data collected for official statistics with other government agencies for specific purposes (e.g. joint collections) • expand provisions that enable data access for research and analysis (e.g., reflecting tikanga framework developed by Statistics NZ in partnership with Māori) • modernise obligations and sanctions with new lower level enforcement tools and sanctions for less serious breaches. 	The Ministry is generally comfortable with this paper and provided comments to Statistics NZ. We are discussing with Statistics NZ the operational implications proposed changes might have for data reuse (e.g. for Environmental Reporting or our policy work) and continuing the strength of the independence of the Government Statistician.

Paper title	Agency	Committee and date due	Risk/issue/opportunity	MfE comments
Hector's and Maui Dolphin Threat Management Plan Review – Fisheries Measures	MPI	DEV	This paper provides measures that the Minister of Fisheries considers necessary to support a revised Hector's and Maui Dolphin Threat Management Plan. It provides a suite of new restrictions on set netting and trawl fisheries in areas of dolphin habitat, and seeks the authorisation of Cabinet to draft new regulations. It also notes the Minister's intention to consult on aspects of the proposals (for the South Island Hector's population) that were not previously consulted on.	The Ministry is broadly comfortable with the paper but noted that any proposals to provide ex gratia payments to affected fishers and businesses have the potential to set a precedent and therefore require careful consideration.
Mangatū Crown Forest Licenced land remedies inquiry: s 9(2)(j)	Te Arawhiti	MCR TBC	s 9(2)(j)	The Ministry does not have any comments on this paper at this stage.
Te Korowai O Wainuiārua: s 9(2)(j)	Te Arawhiti	MCR TBC	s 9(2)(j)	The Ministry supports the proposed changes in this paper.

Released under the provisions of the Official Information Act 1982

Released under the provision of
the Official Information Act 1982

Weekly Update

Hon Nanaia Mahuta, Associate Minister for the Environment

For the week starting 29 June 2020

Environment weekly meeting Monday 29 June 4.30-5.00pm

Attendees: Hon Nanaia Mahuta, Associate Minister for the Environment
Janine Smith, Deputy Secretary, Natural and Built System
Liz Moncrieff, Director, Natural and Built System

	Agenda Item	Lead	Paper / verbal update	Mins
1	Discuss Weekly Update	Liz Moncrieff	Verbal update	10

Released under the provisions of
the Official Information Act 1982

1. Updates for noting

1.1. Wastewater sector report

In our advice to you on 29 April 2020, we noted we are collating data on the wastewater sector in New Zealand to inform our work on the proposed new national environmental standard for wastewater discharges and overflows (wastewater NES) (2020-B-06663 refers).

To support this, the Ministry recently commissioned Boffa Miskell, GHD and Beca (the consultants) to prepare a report documenting current and emerging issues facing the wastewater sector in New Zealand. The report is expected to cover the following:

- a detailed description of the wastewater sector including treatment technologies, contaminants of concern, management of overflows and biosolids, and agencies involved in wastewater regulation and management
- an assessment of the trade waste regime's effectiveness in reducing the volume and concentration of contaminants in municipal wastewater systems
- a description of the key factors influencing the environmental performance of wastewater treatment plants and networks
- an analysis of the extent to which iwi/Māori values and perspectives have been integrated in the wastewater management regime
- an assessment of the ability to transition to a 100 per cent land-based wastewater treatment regime and
- a high-level assessment of the impacts climate change may have on the wastewater sector.

The information in the reports will primarily be based on a synthesis of publically available information. The consultants will also be having conversations with a small number of councils and iwi to inform the development of some case studies on issues facing specific wastewater networks. Some of these conversations are currently underway.

We have informed the local government sector that this work is underway via Local Government New Zealand, and we will inform iwi via our regular communication channels.

We will update you on the progress of this report and on key findings as they emerge.

1.2. Water New Zealand annual report released on Three Waters Infrastructure Performance

In March 2020, Water New Zealand published its annual National Performance Review. The report summarises information about the performance of Three Waters infrastructure around the country using data provided on a voluntary basis by service providers.

The key findings from the 2018-19 report are consistent with our understanding of problems related to the environmental regulation of Three Waters services; there is a need to improve the management of wastewater overflows and stormwater quality.

This year's review has included, for the first time, commentary on source water protection. It refers to the 2016 Havelock North Inquiry and notes source waters for drinking water supplies aren't comprehensively managed. We note that work is already underway to ensure councils and water suppliers are working together to manage risks to source waters as part of the new Water Services Bill. The Ministry is also progressing amendments to the

Drinking Water National Environmental Standard to ensure that councils are managing risks to source waters in planning and consenting decisions.

We can supply you with further information or talking points if you wish to reference the findings of this report or acknowledge the value of Water New Zealand's efforts in making this information accessible to the public.

2. Briefing notes

June 2020

Reference number and title	Lead agency	What this briefing covers	Date due to your office
2020-B-06924 Phase 2 report of the Urban Water Working Group Report	MfE	This briefing will provide advice on the phase 2 report of the Urban Water Working Group Report and seek your decisions on how to acknowledge the publication of this report.	10 July

Released under the provision of the Official Information Act 1982

3. Cabinet material we have been consulted on

Paper title	Agency	Committee and date due	Risk/issue/opportunity	MfE comments
Improving the allocation and transfer process provided in the Māori Commercial Aquaculture Claims Settlement Act 2004	MPI	DEV 8 April	This paper seeks Cabinet approval to amend the Act that enables settlement under regional agreements between iwi and the Crown. In some cases, some iwi of a region refuse to enter the negotiations, or the court cannot resolve disputes raised in the negotiation. In these cases, the Trustee can still receive the settlement assets but cannot currently transfer them to any of the iwi. The amendment enables the assets to be transferred to iwi who claim them.	The Ministry supports the paper to enable settlement assets to be transferred to iwi who claim the assets within a reasonable timeframe. Iwi submitters and the Trustee (Te Ohu Kai Moana Limited) also support the amendment.

Released under the provisions of the Official Information Act 1982

Paper title	Agency	Committee and date due	Risk/issue/opportunity	MfE comments
Revision of the Hector's and Maui Dolphin Threat Management Plan – the Management of Non-Fishing Threats	DOC	ENV 4 June	<p>This paper notes the changes being made to address non-fishing threats to Hector's and Maui Dolphin following recent consultation.</p> <p>The visions, goals, and population outcomes central to the Hector's and Maui Dolphin Threat Management Plan have been updated by the Minister of Conservation and Minister of Fisheries. The Department of Conservation has been instructed to develop and action a Toxoplasmosis Action Plan.</p> <p>The Ministers of Energy and Resources, Fisheries, Transport, and Conservation have consented to extensions of the West Coast North Island and the Bank Peninsula Marine Mammal Sanctuaries. Within these sanctuaries, seismic surveying and seabed mining will be prohibited (with some exemptions). Pending support from the Minister of Energy and Resources, seabed mining will also be prohibited within the Te Rohe o Te Whānau Puha Whale Sanctuary (Kaikōura). These changes will be gazetted and subject to a 28-day period for public comment.</p>	The Ministry is supportive of the non-fishing measures being taken to protect these nationally critical and nationally vulnerable species.
Framework to accelerate progress towards accessibility in New Zealand	MSD	SWC 17 June	This paper seeks Cabinet approval to officials progressing further work on details of a new legislative framework to accelerate accessibility and so achieve better social and economic outcomes for disabled people and other New Zealanders. This work will inform a complete policy proposal to be presented to Cabinet in May 2021.	The Ministry has no particular concerns with the proposal.

Paper title	Agency	Committee and date due	Risk/issue/opportunity	MfE comments
Draft Cabinet paper- Strengthening decommissioning requirements and expanding enforcement tools under the Crown Minerals Act 1991.	MBIE	DEV 19 June	MBIE provided the Ministry with a draft Cabinet paper which was confirmed by Cabinet on Friday 19 June. It seeks to strengthen decommissioning requirements and expand enforcement tools under the Crown Minerals Act 1991 to avoid operators defaulting on their decommissioning obligations.	<p>The Ministry supports strengthening the regime and agree with many of the proposals within the paper, including that the regulator should have powers to conduct regular financial capability assessments in a flexible and case-by-case approach.</p> <p>The Ministry agrees that better enforcement and compliance measures are necessary to strengthen the regime. However, the Ministry did question whether some of the proposed penalties were sufficient to achieve the purpose set out in the paper.</p> <p>The Ministry also considers the paper needs to make the connection to the decommissioning regulations under the EEZ Act clearer, given both are part of a wider regime seeking to strengthen decommissioning.</p>

Released under the provisions of the Official Information Act 1982

Paper title	Agency	Committee and date due	Risk/issue/opportunity	MfE comments
Proposed Government Response to the Public inquiry into the Earthquake Commission Proposal	TSY	DEV 29 June	<p>This paper seeks Cabinet agreement to the proposed Government response to the report and recommendations of the Public Inquiry (the Inquiry) into the Earthquake Commission (EQC), presented to the House on 9 April 2020. There are 70 recommendations. Several pose big picture questions that extend beyond EQC's current mandate.</p> <p>The Ministry specifically input into the proposed responses to three recommendations:</p> <ul style="list-style-type: none"> • 1.1.2 (Clarify expectations with EQC about its responsibility in land-use planning before, and for the coordination of land remediation after, a natural disaster) • 6.4.1 (Consider changes to relevant legislation to enable greater availability and use of information about land and its stability to inform land-use decision making and current and prospective property owners through appropriate public information sources), and • 6.4.2 (Consider granting EQC standing to appear in formal land-use planning hearings). <p>There are opportunities to align implementation of the recommendations with current Ministry work on national adaptation planning and with topics under consideration by the review panel; e.g., climate change adaptation and spatial planning.</p>	<p>The Ministry supports proactive natural hazard risk information being given to development decision-makers.</p> <p>The Ministry supports acceptance of Recommendation 1.1.2, and acceptance in principle of recommendations 6.4.1 and 6.4.2 with further consideration of the mechanisms for delivery.</p> <p>Note that the proposal of formal standing for EQC in land-use planning hearings may not be the most effective mechanism for delivery, that several avenues are already open to EQC to advise on risk, and that the current work in national adaptation planning and the resource management review may offer opportunities for giving effect to recommendations.</p>

Released under the Official Information Act 1982

Paper title	Agency	Committee and date due	Risk/issue/opportunity	MfE comments
Dam Safety Regulations: Policy Decisions	MBIE	DEV 1 July	s 9(2)(f)(iv)	
Proposal to establish an aquaculture subsidiary to Provincial Growth Fund Limited (PGFL)	MBIE	DEV 2 July	<p>This paper seeks agreement to establish a subsidiary, with initial funding, to the PGFL to support development of the aquaculture industry in New Zealand.</p> <p>The proposal supports a number of government priorities including the Government's Economic Plan. The subsidiary would actively seek to invest in a number of projects including the Southland salmon hatchery, an oyster hatchery and the redevelopment of Tarakohe Wharf in Tasman.</p>	The Ministry provided only minor comments on this paper and has no significant concerns with its proposals.
Proposal to amend the Building Act 2004 to provide for a building levy holiday	MBIE	DEV 6 July	<p>This paper seeks agreement to amend the Building Act 2004 to provide for a targeted 12 month building levy holiday for some successful building consent applicants. A time limited change to the Building Act 2004 would be required to achieve this.</p>	The Ministry does not have any comments or concerns on this paper.

Released under the Official Information Act 1982

Paper title	Agency	Committee and date due	Risk/issue/opportunity	MfE comments
Refreshed monitoring approach of Te Puni Kōkiri	TPK	MCR TBC	This paper reports on the implementation of the refreshed monitoring approach of Te Puni Kōkiri.	<p>The Ministry supports a monitoring approach that increases transparency in state sector performance for Māori.</p> <p>We agree the state sector must draw on evidence of what works for Māori and whānau, and at the same time be prepared to innovate, and partner with Māori.</p>
Substantial Alterations: Amendments to Earthquake-prone Buildings Regulations	MBIE	LEG TBC	This paper proposes to change the definition of a 'substantial' alteration to an earthquake prone building, to add a minimum dollar value of \$150,000, as the previous definition (25% of the building's dollar value) had a disproportionate impact on provincial and small towns with low value properties.	The Ministry is comfortable with the proposal and had no comments on this paper.
Consultation on discussion document for Crown Minerals Act review and Minerals and Petroleum Strategy	MBIE	DEV TBC	<p>Marine risk & liability: policy development for decommissioning offshore oil and gas installations is out of scope. MBIE intends this to be a separate programme.</p> <p>Mining policies are inconsistent for offshore and onshore areas of conservation value. MBIE has not addressed this issue or indicated that it will be reviewing permit processes for benthic protection areas.</p> <p>Onshore risk & liability: the discussion document does not test policy settings for the long term liability for abandoned onshore wells.</p>	<p>The Ministry broadly supports the strategy and discussion document. We consider that the review scope should include:</p> <ul style="list-style-type: none"> residual liability for offshore oil and infrastructure mining restrictions in benthic protection areas <p>Greater liability for longer term cost, clean up and prosecution of future sites should be placed with industry rather than relying on the taxpayer-funded contaminated sites remediation fund.</p> <p>We have largely been providing technical advice to MBIE on compliance and enforcement issues such as setting penalties, court functions and other regulatory mechanisms. Engagement with MBIE is ongoing.</p>

Paper title	Agency	Committee and date due	Risk/issue/opportunity	MfE comments
New form for determination applications under new building emergency management powers, and updated form to modernise current determination applications	MBIE	LEG TBC	The Building Amendment Act 2019 will implement a new system to improve the management of buildings that are damaged or at risk of damage after an emergency event. This paper seeks authorisation to give effect to policy decisions made in that Act regarding applications for determinations, and also makes minor and technical updates to the Building (Forms) Regulations 2004.	The Ministry is comfortable with the proposal and had no comments on this paper.
Report back on proactive release of Cabinet material policy	SSC	GOV TBC	The paper notes that the policy is still embedding but already producing results with regard to the number of papers released. s 9(2)(f)(iv)	The Ministry supports the paper and has been involved in cross agency discussions on the proposed reporting regime.
New Zealand's financial security regime for offshore installations- Proposed amendments to Marine Protection Rules	MoT	DEV TBC	This noting paper reports back to Cabinet on the outcomes of public consultation on proposed amendments to Marine Protection Rules Part 102 and 131. The changes strengthen the offshore financial security regime for offshore installations which includes increasing the maximum limit of insurance to \$1.2 billion and introducing a new scaled insurance framework with costs proportionate to the risk posed.	The Ministry broadly supports the changes that have been made since consultation in April. s 9(2)(g)

Released under the Official Information Act 1982

Paper title	Agency	Committee and date due	Risk/issue/opportunity	MfE comments
Building Consent Exemptions in Schedule 1 of the Building Act 2004	MBIE	DEV TBC	This paper proposes amendments to Schedule 1 of the Building Act 2004 to include 12 additional exemptions for minor and low risk building work from the Building Consent process. The exemptions include short span bridges, carports, single storey detached pole sheds and hay barns, solar array panels, veranda, awnings, single storey detached buildings, pipe support structures and flexible water bladders. Guidance to TA's would also be updated.	The Ministry is comfortable with this paper and has provided comments to the MBIE.
Data and Statistics Legislation: Paper 1 – Overview of policy decisions Paper 2 - Official statistics system Paper 3 – Research and Analysis Paper 4 – Obligations and sanctions	Statistics NZ	GOV TBC	New data and statistics legislation will: <ul style="list-style-type: none"> • modernise roles and responsibilities for the Minister and Government Statistician • recognise the Māori-Crown relationship and what this means for Māori data and statistics • acknowledge the role and responsibilities other agencies play in collecting and sharing data for production of official statistics • recognise the variety of data sources for official statistics (surveys, administrative data, other data sources) • enable Statistics NZ to continue sharing data collected for official statistics with other government agencies for specific purposes (e.g. joint collections) • expand provisions that enable data access for research and analysis (e.g., reflecting tikanga framework developed by Statistics NZ in partnership with Māori) • modernise obligations and sanctions with new lower level enforcement tools and sanctions for less serious breaches. 	The Ministry is generally comfortable with this paper and provided comments to Statistics NZ. We are discussing with Statistics NZ the operational implications proposed changes might have for data reuse (e.g. for Environmental Reporting or our policy work) and continuing the strength of the independence of the Government Statistician.

Paper title	Agency	Committee and date due	Risk/issue/opportunity	MfE comments
Hector's and Maui Dolphin Threat Management Plan Review – Fisheries Measures	MPI	DEV	This paper provides measures that the Minister of Fisheries considers necessary to support a revised Hector's and Maui Dolphin Threat Management Plan. It provides a suite of new restrictions on set netting and trawl fisheries in areas of dolphin habitat, and seeks the authorisation of Cabinet to draft new regulations. It also notes the Minister's intention to consult on aspects of the proposals (for the South Island Hector's population) that were not previously consulted on.	The Ministry is broadly comfortable with the paper but noted that any proposals to provide ex gratia payments to affected fishers and businesses have the potential to set a precedent and therefore require careful consideration.
Mangatū Crown Forest Licenced land remedies inquiry: s 9(2)(j)	Te Arawhiti	MCR TBC	s 9(2)(j)	The Ministry does not have any comments on this paper at this stage.
Te Korowai O Wainuiārua s 9(2)(j)	Te Arawhiti	MCR TBC	s 9(2)(j)	The Ministry supports the proposed changes in this paper.

Released under the provisions of the Official Information Act 1982