Ministry for the Environment
Manatū Mō Te Taiao

Ministry for Primary Industries
Manatū Ahu Matua

To: Hon David Carter, Minister for Primary Industries
Hon Amy Adams, Minister for the Environment

Water Reform: Key information for EGI on Wednesday 5 December 2012

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Withheld under section 9(2)(a)				
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Executive Summary

1. The strategy to reform freshwater management in New Zealand is on the agenda for Cabinet's Economic Growth and Infrastructure Committee (EGI) on 5 December 2012. This briefing provides you with key information that you may require for this meeting, including the following:
    1. key talking points on the four Cabinet papers on the elements of the water reform strategy including governance and decision-making (12-C-01734), objective and limit setting (12-C-01739), managing within water quality limits (12-C-01744) and managing within limits – quantity (12-C-01736) (appendix 1)
    2. 'back pocket' information on matters that may arise during the meeting including iwi/Māori rights and interests, the sequence of water reform over time, and the classes or terms to be used in the National Objectives framework (appendix 2)
    3. a table mapping the Land and Water Forum's (the Forum) recommendations against the strategy for water reform outlined in the Cabinet papers (appendix 3)
    4. a glossary of key terms (appendix 4)
    5. a table of potential water quality indicators for inclusion in the National objectives framework (appendix 5).
2. Final decisions on the water reform strategy are not being sought at this meeting. The matters for agreement at EGI relate to the content of a draft discussion document to be prepared on the water reform strategy. EGI has already agreed in principle that a discussion document be released for consultation in February 2013

(EGI Min (12) 26/2 refers). The draft discussion document will be submitted to Cabinet for approval prior to its release.

Recommended Action

We recommend that you:

a) **Note** that the elements of the strategy for water reform are being discussed at Cabinet's Economic Growth and Infrastructure Committee (EGI) on 5 December 2012

b) **Note** the attached talking points and supporting information should you require it at the meeting with EGI on 5 December 2012

c) **Note** that on 12 December 2012, EGI will be considering a further Cabinet paper on the implementation of the water reform strategy, including the vision and purpose for water reform, iwi/Māori rights and interests, potential timing for implementation and an approach and process for consultation taking place in February 2013.

Kay Harrison
Director, Water Reform

Date 4/12/12

Hon David Carter
Minister for Primary Industries

Date

Hon Amy Adams
Minister for the Environment

Date

Appendix 1: Talking points

Four Cabinet papers on the elements of the reform strategy were provided to your office, and lodged with Cabinet Office on Thursday 29 November 2012:

1. Water Reform: Governance – proposals for public discussion document (12-C-01734)
2. Water Reform: Objective and Limit Setting (12-C-01739)
3. Water reform: Managing within water quality limits (12-C-01744)
4. Water reform: Managing within limits – quantity (12-C-01736).

Talking points for each of these papers, on the economic impacts work, and Māori rights and interests in fresh water are provided below.

General

- Improving the water management system will require solutions that start now and adapt over a generation. That is why we recommend changes over the next year and suggest signalling in the discussion document that we will build on these progressively over time.
- Most regional councils are still in the early stages of implementing the NPS-FM, and there is an opportunity to maximise benefits if reform is progressed quickly.

Governance and decision-making

- To improve the quality of decisions, and support the effective implementation of the National Policy Statement on Freshwater Management (NPS-FM), the governance system needs:
  - central government to step up and take a strong and active role in water management: setting clear national values and expectations, assisting local government and intervening in council processes if necessary
  - regional councils staying the primary managers of freshwater governance, but within the context of a stronger national framework (e.g. national bottom lines). We also propose an optional collaborative planning process that will give stakeholders a stronger say on management
  - clear provision for iwi/Māori involvement in the collaborative process – including a formal advisory role on council decisions
  - some changes to appeal rights to help incentivise better engagement in the planning process and enable stronger first-instance decisions.
- Withheld under section 9(2)(ba)(i)

Objective and limit setting

- Setting objectives and limits are a critical first step in managing water. The proposals are aimed to guide regional councils as they implement the NPS-FM and transition to a limits-based regime.
- The proposals are expected to improve the efficiency, consistency and effectiveness of objective and limit setting by regional councils.

- Officials are working with regional councils to research the economic impacts of the adjustment that could be required to a limits-based regime. Officials will provide more detailed analysis in 2013. [talking points on the economic impacts work are provided below]

Managing within limits – quality

- Setting water quality limits is essential for improving the management of water quality. But if regional councils are to develop policies that achieve water quality objectives at the lowest cost, while also enabling economic growth, we need to take further steps to improve water quality management.
- Three foundation measures are proposed to ensure councils, resource users and communities have the right information and understand the costs and benefits of decisions:
    - improving the availability and suitability of scientific and economic information needed for making decisions on quality limits
    - providing guidance to regional councils, to quickly address the key concerns emerging with the way the NPS-FM is being implemented (stronger measures such as national regulations (which take longer to develop) will be advanced where required)
    - sector-specific good management practices for water quality management, including costs and effectiveness, to underpin regional council and resource user decision-making.
- The measures proposed are sensible and essential foundations that can be delivered quickly, while longer term measures are developed to improve the policy tools used by regional councils, and evaluate whether new tools are needed.

Managing within limits – quantity

- We need to get the greatest value from the water that is available for use within limits.
- Existing systems are inadequate to produce good information about what water is allocated and used, what is available for use, and how efficiently it is used. This creates uncertainty and additional costs for councils, water users and communities.
- To achieve a robust regime for managing within quantity limits in the long term, we need to get the basics right. This includes addressing: accounting for all types of water take, monitoring and compliance, how water permits are specified, improving the efficiency of water use and matters relating to transition (managing over allocation and dealing with unauthorised use).
- This will ensure councils, water users and communities have the right information and understand the full costs and benefits of decisions on water use and allocation.
- It will also enable implementation of measures in the longer term that would generate significant economic benefits.
- If the foundation measures are not addressed first, the information and regulatory regime will not be available to make the longer term tools (e.g. permit duration, alternative allocation tools, simplifying transfers and pricing) work effectively. This would risk exacerbating over allocation and the associated costs.

Iwi/Māori rights and interests

- Further work is required to develop proposals for reflecting iwi rights and interests in the proposed reform strategy. Preliminary views are in the papers; however it was necessary to see how the core package came together before we could really begin to

explore how rights and interests could be given practical effect within that core package.

- More developed proposals will be provided to Ministers in early 2013.
- withheld under section 9(2)(ba)(i)

Economic Impact Joint Venture Studies (EIJVS) project

- The Water Reform Directorate is working with other government departments and selected regional councils and has commissioned studies that will enable decision-makers to assess the economic, environmental, cultural and social impacts of setting water quality and quantity limits.
- The studies will enable identification of the key economic impacts of quality and quantity limits, including the major tradeoffs that decision-makers will face.
- Results of the studies are expected to be available in the first quarter of 2013.
- A national-level framework to model a generic region's catchments from a geographic perspective, alongside water-reliant economic activity and non-direct water use values is also being built.
- This will provide an option for regional councils that do not have the means to carry out impact analysis studies across all sectors and uses to make more informed estimates of the potential impacts of decisions.

Appendix 2: 'Back pocket' talking points

Sequence of water reform over time

- Implementation of the water reform strategy can begin in 2013 with a series of foundation measures and is designed to be built on progressively over a generation.
- Long term reforms can be signalled in the February 2013 discussion document. These can be developed and adapted as the impacts of the foundation measures become known and as more councils begin to set limits and objectives.
- There are also some tools and advice that can be developed quickly and that will support councils in making decisions about, and managing, their fresh water.
- Longer term reforms will include a mix of guidance and regulation. This is likely to include better tools for managing issues such as the initial allocation of water, consent duration, transfer/trading and pricing. Work on these measures could start in 2015, and implementation could accelerate over 2016-2017.
- Some of these dates may change. The NPS-FM will be reviewed in 2016. This presents an opportunity to review the progress of the overall water reform strategy, and to make any changes to the NPS-FM that would assist further implementation of the package.
- Further information will be provided on the sequencing of reforms in the Cabinet paper 'Implementing a Water Reform Strategy' which is on the agenda for consideration by EGI on 12 December 2012.

Alignment with other government reforms

- A number of government reforms, including the better local government reforms, phase two of the Resource Management, Housing Affordability, and Building Act and Land

Transport reform are driving towards achieving strategic priorities – in particular building a productive and competitive economy and delivering better public services.

- Officials are working to ensure that water reform fits as a coherent part of this broader package and that together they support the role of local government as regional decision makers.
- Water reform will link with a number of these related reforms:
    - working with councils to build capability and capacity to manage water effectively will link with the performance monitoring and improvement regime that is part of Better Local Government and components of housing affordability
    - resource management reforms are designed to ensure there is a resource management system that delivers communities' planning needs, enables growth and provides strong environmental outcomes in a timely and cost-effective way. Reform to water management fits within this
    - work to establish a performance framework for the RMA. This framework will develop measures for council performance expectations and will institute new arrangements for the collection of more detailed, nationally consistent and comparable information on the RMA.
- The consultation period for water reform is likely to coincide with the resource management consultation. This process will be managed to minimise confusion over the purpose of each consultation.
- The discussion document on water reform will have specific proposals around freshwater management and need to be positioned as a strategy for a generation, whereas the resource management consultation will deal with wider issues in resource management.
- Cabinet decisions and drafting instructions for both will be needed by mid 2013.

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Section 9(2)(ba)(i)

Terms/Classes for the National Objective Framework

- The classes used to describe water quality (for example: Excellent, High, Fair, Unacceptable) create value perceptions, e.g. what does 'fair' mean; is 'high' really high quality? Further work is being carried out by officials for appropriate terms for the National Objective Framework. This may focus on international trends, which use A, B, C as neutral terms to describe water quality.

Virtual Centre for Economic Analysis

- There is currently a significant appetite among resource users to partner with central and regional government to provide further economic analysis to inform Councils' implementation of the NPS-FM over the longer term.
- In particular, Dairy NZ has put forward a proposal for a 'virtual centre' for economic analysis. This could provide in-depth economic information to regional councils and also build the capacity and capability in New Zealand to undertake agricultural and environmental economic analysis. Dairy NZ has indicated it would be willing to provide significant funding to support such a concept.
- Officials consider that there is a need to continue to support councils' implementation of the NPS-FM after the current economic joint venture with councils is completed in 2013 (referred to above). There is merit in the objective of building capability in the area of economic and environmental analysis. We therefore propose to work with regional councils and industry stakeholders including Dairy NZ over the coming months to refine the concept.

Appendix 3: Water Reform Strategy and the LAWF reports

Withheld under
section 9(2)(f)(iv)
of the OIA

Appendix 4: Glossary: Freshwater Management[1]

- **Allocation:** the decision about who accesses the resource in terms of water quantity or assimilative capacity, how much they access, and what price they pay (if any).
- **Assimilative capacity:** the capacity of a water-body to assimilate a discharge of contaminant to a concentration within a defined acceptable level.
- **Efficient use of water** includes:
    - **Technical efficiency** - the amount used in relation to benefit; includes avoiding wastage;
    - **Allocative efficiency/ Economic efficiency** - uses resulting in the optimum outcome for the community;
    - **Dynamic efficiency** - uses adjusting over time in order to achieve or maintain allocative efficiency.
- **Freshwater objectives:** the environmental state of the water body that the community wants, e.g., the water body should be swimmable at certain times of the year, while still enabling farming to thrive in the catchment, or the water body should remain wild and pristine.
- **Good management practice (GMP):** An evolving suite of tools or practical measures that could be put in place at a land user, sector or industry level to improve management practice against water related objectives.
- **Limits:** constraints on resource use that allow the objectives for the water body to be met. They relate to quantity and/or quality of water.
- **Water quality limits** are specific quantifiable amounts. A common type of limit would be one that sets the maximum nutrient load entering a water body (#kg/yr). Limits are given effect through constraints on resource use to manage the amount of contaminants allowed to enter a water body, thereby enabling the objectives to be met. Examples of land use constraints include: land use controls like zoning; requiring particular technologies or practices; caps on stocking rates or fertilisers; or output limits (e.g. nitrogen run-off) set by a combination of modelling and measuring tools like Clues and Overseer.
- **Water quality limits** put constraints on resource use to manage the amount of contaminants allowed to enter a water body, while still meeting the objectives. A range of measures can be used to set and help meet the limits, e.g. land use controls like zoning; requiring particular technologies or practices; caps on stocking rates or fertilisers; or output limits (e.g. nitrogen run-off) set by a combination of modelling and measuring tools like Overseer.)
- **Over-allocation:** refers to both water quality and quantity and is the situation where the resource:
    - has been allocated to users beyond a *limit* or
    - is being used to a point where a *freshwater objective* is no longer being met.

[1] Some of these terms are also defined in the National Policy Statement for Freshwater Management (NPS-FM). The above definitions are consistent with those definitions but are not identical to them.

Appendix 5: Potential water quality indicators for inclusion in the National Objectives Framework

Measure	Information from the measure	What impacts on these measures?
E Coli	E Coli are indicators of illness causing bacteria and viruses that limit recreation and mahinga kai gathering opportunities.	Wastewater treatment plant and septic tank discharges, livestock in rivers, effluent management, large water fowl populations.
Cyanobacteria	Cyanobacteria are a health risk to humans (and dogs), are of visual concern to the public, and indicate excessive nutrient levels in the river or lake.	Nutrient losses (from agricultural and urban systems), break connectivity between nutrient sources and rivers, maintaining flows and/or flushing flows to reduce the build up of algal mats.
Slime and algae in rivers and lakes Measured by periphyton and chlorophyll-a	Slime and algae are of visual concern to the public and impact on swimming.	Nutrient losses (from agricultural and urban systems), shading water bodies to reduce light and water temperature, maintaining sufficient flows and/or flushing flows to reduce the build up of algal mats.
Sediment Measured by clarity and/or deposited fine sediment	Sediment is of visual concern to the public, limits the gathering of mahinga kai, degrades habitat space for aquatic species, and changes river, lake and estuary bed levels (increasing flood risk)	Tree plantings and erosion control on agricultural pasture, especially in steep hill country.
Heavy metals	Heavy metals have a toxicant effect on aquatic life and can accumulate in aquatic ecosystems	Source controls (eg. low heavy metal roofing materials and automotive components)
Nitrate and ammonia	Nitrate and ammonia have a toxicant effect on aquatic life, particularly fish (impacts on growth, and deaths at high enough concentrations)	Nutrient losses (from agricultural and urban systems).
Fish and macroinvertebrates	Direct indicators of indigenous species.	Nutrient losses (from agricultural and urban systems), habitat, pest species

Key

Measure of human health objective
Measure of ecosystem health objective
Measure of indigenous species objective