

Office of the Minister for Primary Industries  
Office of the Minister for the Environment

Chair

Cabinet Economic Growth and Infrastructure Committee

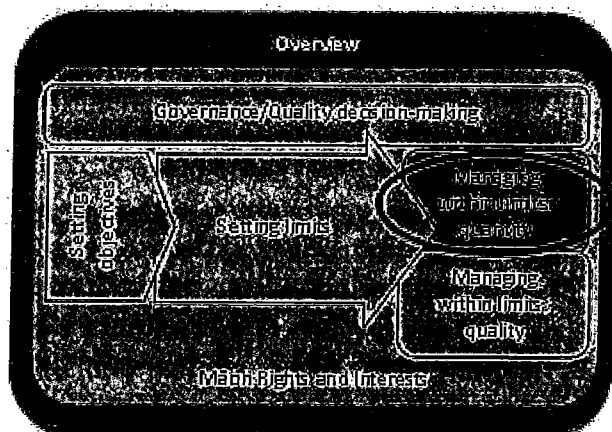
Water Reform Paper Four: Managing within limits – quantity

Proposal

1. This paper seeks agreement to an approach to managing within water quantity limits for inclusion in a water reform discussion document in early 2013 that sets out proposals for implementing a water reform strategy. For managing within water quantity limits, this would include:
  - a. setting out the policy goal and objectives for the efficient and equitable management of water quantity within limits in the long term
  - b. identifying proposals for strengthening the foundations of the management regime in the near term, including water accounting systems, monitoring and compliance, specification of water permits, improving the efficiency of water use and transition
  - c. signalling how longer term issues (e.g. alternative allocation tools, mechanisms for efficient water use) will be addressed over the next several years, informed by robust information and ongoing evaluation of the impacts of the foundation measures.

Executive summary

2. This is the fourth paper (of four) on the core policy elements of an overall package for a water reform strategy (see Annex A). Improving the water management system will require solutions that start now and adapt over the long term. We recommend introducing changes over the next year and signalling that we will build on these progressively over time. Reform will require changes over a generation.
3. The National Policy Statement for Freshwater Management 2011 (NPS-FM) requires regional councils to set objectives and limits for freshwater quantity. It also includes specific requirements on allocation and efficient use (e.g. requiring councils to manage over-allocation, provide for efficient allocation and state criteria for assessing applications to transfer permits).
4. Setting objectives and limits under the NPS-FM (as set out in the parallel water reform paper two on objectives and limits) is a vital first step in managing water quantity in a



way that achieves the right balance between economic and environmental outcomes. The limit setting process ensures that ecological, spiritual and other non-use values of water are protected, while providing water users with certainty about what is available for use.

5. Once limits are set, there is a need to ensure that the water available for use is managed efficiently and effectively so that opportunities for investment in water use and economic growth can be maximised.
6. There are currently a number of problems that are preventing New Zealand from getting the greatest value from its water resources. A strategy is needed for addressing these problems in a way that promotes the achievement of both the environmental and economic benefits of water reform.
7. The policy goal is to *ensure the regime for managing within quantity limits maximises the value to society of the water available for use, both now and in the future, while ensuring iwi/Māori rights and interests are considered.*

#### *Proposals for discussion document*

8. We recommend that a water reform discussion document in early 2013 include proposals for developing foundation measures to address water accounting systems, improved monitoring and compliance, improved specification of water permits, improving the efficiency of water use, and transition. These measures will provide significant benefits in their own right, such as improving the confidence current permit holders have in the security of their water supply. They also provide the foundation for building a more sophisticated management regime in the longer term.
9. The longer term issues are more complex and challenging, but are likely to deliver opportunities for significantly improving the economic value generated from water use. Advancing the longer term issues necessitates the foundation measures being in place first.

#### Foundation measures

- 10. Ensuring that all components of the management system contribute to efficient water use underpins the proposed approach to improving management within water quantity limits.
11. Improved water accounting will increase the information available on how water resources are used and allocated, and on how much water remains available for use. This will include the systems and processes regional councils should implement, the water takes to be included, and methods for accounting for different types of use.
12. Monitoring and compliance are important to ensure adequate information is available for an effective accounting system, and to allow councils to enforce use within limits. This will include ensuring councils collect adequate information on all types of take, improving compliance systems and improving councils' accountability for monitoring and compliance.
13. Improving the way water permits are specified can increase the certainty and confidence users have in their access to water, assist water accounting and simplify monitoring and reporting. This will include improving the consistency and clarity of permit specification, and ensuring permits are specified to provide flexibility to respond to changes in the amount of water available.

14. Improving the efficiency of water use can free up water for other uses or users, with associated economic benefits. Guidance and good management practice measures will be developed to assist regional councils and sectors to improve the efficiency of water use.
15. How to manage transitional issues will also be addressed in the near term. This will include proposals on managing over-allocation and treatment of unauthorised takes in moving to a new management regime.

#### Longer term issues

16. The longer term issues cover matters such as permit duration, alternative tools for initial allocation (e.g. merit based, tendering) and mechanisms for efficient water use (e.g. development of national efficiency standards and pricing). It is recommended that the discussion document set out a broad approach and timeframe for addressing these issues.

#### *Impacts*

17. In the long term, improving the regime for managing within water quantity limits is likely to provide significant economic benefits. There is potential to free up water that is currently unused, which could generate significant economic benefits in water constrained catchments. In the short term, it will reduce the need for water permit holders to protect their security of supply by challenging new applications. It will also reduce the risk of applicants having permits declined because there is insufficient water available.

#### *Views of Freshwater Iwi Advisors Group on managing within quantity limits*

18. The views of the Freshwater Iwi Advisors Group (Iwi Advisors) in relation to managing within water quantity limits are noted in this paper.

#### **Background**

19. This paper is one of four papers on the core policy elements for a water reform strategy. On 19 November 2012 Cabinet agreed in principle that Government consult, through a discussion document in early 2013, on proposals to implement a water reform strategy that includes reforms to governance, setting objectives and limits, and managing limits for both quality and quantity [EGI Min (12) 26/2].
20. The paper has been informed by the recommendations in the third Land and Water Forum (the Forum) report *Managing Water Quality and Allocating Water*. The Forum recommended that water, land and related resource use within limits should maximise economic benefits. The recommendations collectively support a high degree of regional-level discretion in policy and decision making, with a significant amount of central government guidance and support.
21. This paper outlines a proposed direction for reform in relation to managing within water quantity limits. It responds to the July 2012 Cabinet Business Committee invitation to the Minister for Primary Industries and the Minister for the Environment to report back to EGI by 30 November 2012 on new work under tranche three of Fresh Start for Fresh Water (FSFW), covering managing within water quantity and quality limits [CAB.Min (12) 25/2 refers].

## Context

### *Current management framework*

#### Resource Management Act 1991

22. Water is managed under the Resource Management Act 1991 (RMA). Section 14 prevents the taking and use of water unless it is:
  - a. expressly allowed through a national environment standard, rule in a regional plan, or through the issuing of a resource consent
  - b. taken under section 14(3)(b) for individual domestic purposes or drinking water for stock and other animals (and has no adverse effect on the environment)
  - c. taken for fire fighting under s14(3)(e).
23. Most councils use first-in-first-served (FIFS), meaning that the applications are considered in the order in which they are received. The use of FIFS has been confirmed in a number of court cases.
24. The RMA also provides for permits to be transferred or traded to another person on another site, or another site, under certain conditions. To date the majority of transfers and trades have occurred in Canterbury, largely through brokers in the private sector, e.g. HydroTrader and real estate agents.
25. Water permits can be issued by regional councils for periods up to 35 years. The RMA sets out a process for regional councils to use in considering applications when a consent is due to expire. There is no automatic right of renewal for the incumbent but the consent authority must have regard to, amongst other things, the value of the investment of the existing permit holder.

#### National Policy Statement for Freshwater Management 2011

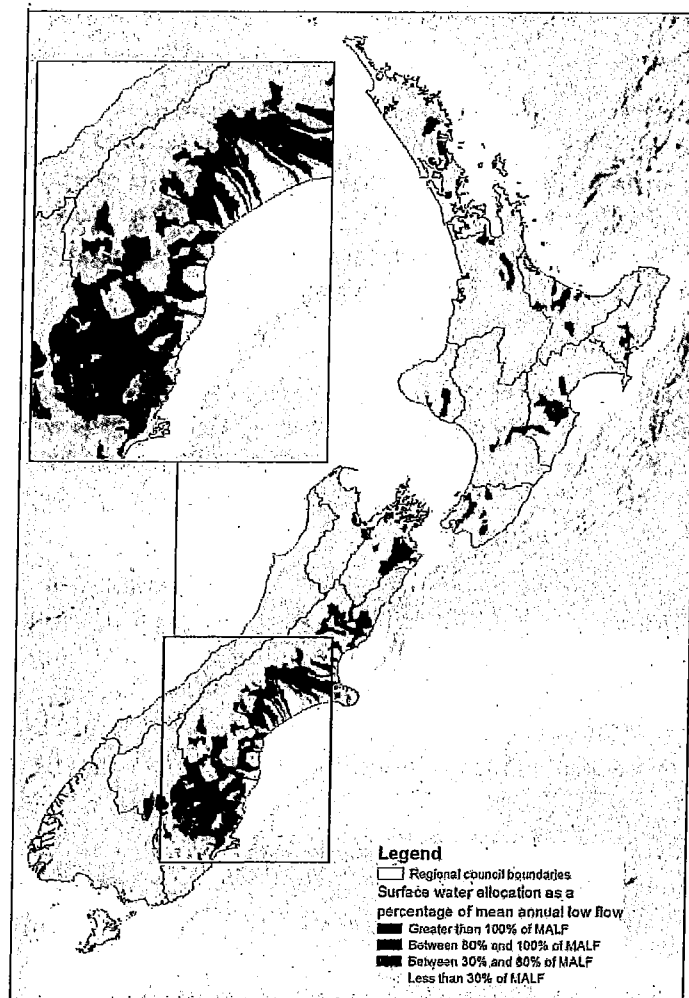
26. The National Policy Statement for Freshwater Management (NPS-FM) requires regional councils to set enforceable quantity and quality limits for freshwater bodies no later than December 2030. For water quantity, it requires councils to provide for the efficient allocation and use of water, state criteria for assessing applications for approval of transfers of water take permits, and avoid and address over-allocation.
27. While the NPS-FM sets the policy objectives for improved management within limits, it does not guide or direct regional councils on the best way of achieving this. Nor does it ensure that regional councils have access to the necessary tools to achieve the objectives in a timely and cost effective manner. The purpose of the work on managing within quantity limits is to address these issues.

#### Current pressure on water resources

28. Map 1 indicates the level of pressure on surface water resources from water permits. It compares the maximum consented surface water take with the modelled minimum flow during dry periods (mean annual low flow). This shows the worst case scenario if all the water consented was used during the low flow period.

Darker coloured areas highlight catchments that may be at risk of water scarcity during dry periods.<sup>1</sup>

29. The map is based on a scenario of full use. However, a 2010 report by Aqualinc estimates that, on average, only 65% of water allowed to be taken under water permits may actually be used. This is probably partly because there is greater use during dry periods and lower use at other times. However, there is evidence that not all consented water is used. This indicates there is scope for getting greater value from the water available for use.
30. Map 1 also illustrates the diversity of water scarcity, showing that some catchments face high levels of pressure but others do not. This indicates that the regime for managing within limits will need to be flexible to deal with a range of different situations.
31. The map relates solely to surface water. In some regions, e.g. Hawkes Bay and Tasman, ground water is a more significant source of water supply. In general, there is currently limited information on the size of New Zealand's groundwater resource.



**Map 1: Surface water allocation as a proportion of mean annual low flow**

<sup>1</sup> Darker areas do not necessarily indicate over-allocation, as many regional councils have management tools in place to reduce the allocation pressure during these periods. There will also be areas known to be fully allocated or close to fully allocated (e.g. the upper Waikato River) that will not be identified using the 'mean annual low flow' approach.

### *Current water allocation*

32. In 2010 there were more than 20,500 water permits; around 1% of these were for non-consumptive takes (which includes the consents for most hydro generation). Nationally, irrigation makes up 75% of consents by number, drinking water and industry comprise 9% each. The use of consented water varies between regions. For example, Canterbury has the highest proportion of consents (30% of the national total), 88% of these consents are for irrigation, 6% for drinking water and 5% for industrial use. In Auckland (6% of the national total) 57% of the consents are for municipal supply, 23% for irrigation and 20% for industrial use.
33. Water can also be taken under s14(3)(b) of the RMA for individual domestic purposes or for drinking water for stock and other animals, or through being given 'permitted activity status' in a regional plan. There is limited information available on the size of these takes compared to the size of consented takes, though in some areas they may be significant. For example, Waikato Regional Council has developed a model for assessing the magnitude of permitted activity and s14(3)(b) takes at times of peak demand. The model suggests that in some catchments these takes account for more than 50% of the water available for use within limits, and in some cases exceed the amount of water available for use.

### *Growing demand for water*

34. Demand for water is increasing, new applications cannot be accepted in some areas where water is fully allocated and shortages are being experienced in some areas at some times of the year. Between 2006 and 2010 the national weekly water allocation increased by 10% for uses other than hydro-electricity generation. This increase can largely be explained by a 14% increase in the amount of land irrigated (under consented water takes).

### *Meeting growing demand*

35. Increased storage infrastructure can contribute to meeting growing demand for water by augmenting supply and, in some cases, facilitating the movement of water to areas where it was previously unavailable. However, there are cost and practical limitations on the extent to which storage can be relied upon to meet New Zealand's growing demand for water.
36. The Government has established the Irrigation Acceleration Fund of \$35 million over five years from 1 July 2011, to support the development of appropriate irrigation infrastructure proposals to the 'investment-ready' prospectus stage. The Government signalled its intention as an Election 2011 commitment to invest up to \$400 million as an equity partner in such schemes. The Minister for Primary Industries will be providing a Cabinet paper on Crown investment in irrigation infrastructure in December.
37. Building new infrastructure is expensive and there is a range of challenges in securing access to the levels of investment required. Also, there are many locations in New Zealand where geography and/or hydrology make storage impractical or prohibitively costly.
38. Encouraging more efficient use of available water will be vital, particularly in areas where storage is costly or impractical. It will also be critical to ensure that investment in storage is undertaken where it is practical and makes good economic sense in the long term.

## Comment

### *Problems associated with managing within water quantity limits*

39. There are problems with the water management regime that need to be resolved if councils are to effectively manage within water quantity limits set under the NPS-FM, and economic growth objectives are to be achieved. These include:
- a. systems and practices for accounting for water quantity takes do not include all takes (including where these takes are increasing), leading to poor reliability of supply, over-allocation, conflict and litigation
  - b. the specification and sometimes unnecessarily short duration of water permits do not provide users with adequate certainty and confidence to invest and innovate, and makes accounting more difficult
  - c. water is not allocated in a way that generates the greatest economic value in areas of scarcity and competing use
  - d. water cannot move easily to higher value uses or users over time
  - e. there are weak incentives to take only the amount of water required or to use water efficiently once it is allocated
  - f. monitoring and compliance is insufficient to maintain the integrity of the allocation regime
  - g. over-allocation in some catchments will need to be addressed before the management regime can operate efficiently and equitably within limits
  - h. there is a question as to whether the costs and benefits of using water are distributed equitably between water users, communities and the wider public.

### *Impacts*

40. There are likely to be significant benefits in resolving these problems. For example:
- a. reducing the need for water permit holders to protect their security of supply by challenging new applications through the courts. The average cost per party in challenging a consent is \$77,000 (based on applications to the Legal Assistance Fund)
  - b. reducing the risk of having a water permit declined because insufficient water is available. The average costs of applications range from \$201 for a non-notified consent to \$43,389 for a notified consent (not including the costs of preparing the application)
  - c. reducing the transaction costs associated with transfers of permits, which are similar to the cost of an application for a new water permit
  - d. freeing up water that is currently unused could have considerable economic benefits. In constrained catchments, it is estimated<sup>2</sup> that the gross value of a 5% improvement in efficiency would be approximately \$100.9 million.<sup>3</sup> As outlined in paragraph 27, there is potential for a significant amount of water to be made available.

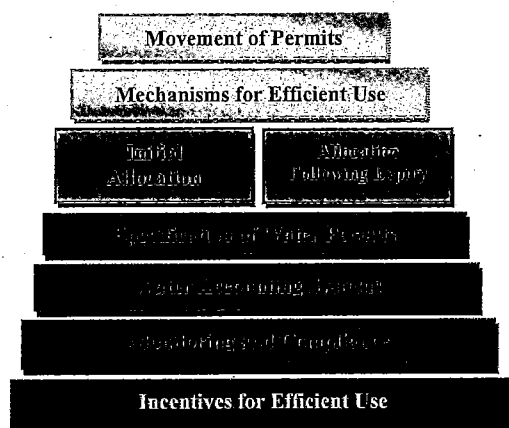
<sup>2</sup> MfE 2010 *Regulatory impact statement: use of alternative form of regulations on the measurement of water takes*

<sup>3</sup> Note: this applies only to efficiency gains from large takes (over 20 litres per second) and does not include the costs incurred in achieving the efficiency gain.

*Building a better regime for managing within water quantity limits*

41. An efficient and equitable regime for managing within water quantity limits must include the following components if the full economic potential of sustainable water use is to be realised:
- a. incentives for efficient use – all components of the management system need to create incentives for water users to use water in a way that maximises output, while minimising waste, including not applying for more water than needed
  - b. monitoring and compliance – the systems and processes in place to collect the data and information necessary to inform the accounting systems and ensure the rules governing access to water are complied with
  - c. water accounting – the systems and processes that identify what water is allocated through all different types of take (including to whom and for how long) and what water remains available for allocation
  - d. specification of water permits – how the rights, responsibilities and accountabilities that establish the ability to take and use water are expressed
  - e. initial allocation – decisions about who can access water which has not previously been allocated, including how much they can take
  - f. allocation of permits following expiry – decisions about who can access previously allocated water and how much they can access following the expiry of the original permit's duration
  - g. mechanisms for efficient water use – additional tools for ensuring water is used efficiently and not wasted, and
  - h. movement of permits – facilitating the transfer of water permits to higher value uses over the life of the permit.

Figure 1: Building an efficient, equitable and effective regime for managing within water quantity limits



42. Figure 1 illustrates how the different components build on each other. Some of these components provide the foundations for the regime for managing within quantity limits. For example, effective and reliable water accounting systems are not possible without appropriate levels of monitoring of water takes to know that the information contained in the water accounting system is up to date and correct. If the foundation measures are not performing well it will impact on the performance and integrity of the whole regime.

43. This implies that:

- a. significant improvements can be made to the management system by addressing the foundation measures
- b. some types of reform will not be possible without having the appropriate foundation measures in place. For example, some alternatives to first-in-first-served (e.g. tenders) cannot be implemented without adequate water accounting systems to confirm that the water associated with the tendered permit is actually available
- c. reform initiatives should focus on getting the foundations of the regime right before considering more sophisticated allocation tools.

#### **Proposed approach to managing within water quantity limits**

44. This paper seeks agreement to an approach to managing within water quantity limits for inclusion in a water reform discussion document in early 2013. The discussion document will set out proposals for implementing a water reform strategy. For managing within water quantity limits, this would include:

- a. setting out the policy goal and objectives for the efficient and equitable management of water quantity within limits in the long term
- b. identifying proposals for strengthening the foundations of the management regime in the near term, including water accounting systems, monitoring and compliance, specification of water permits, improving the efficiency of water use and transition.
- c. signalling how longer term issues (e.g. permit duration, alternative allocation tools, mechanisms for efficient water use) will be addressed over the next several years, informed by robust information about the impacts of different approaches.

45. This approach enables the foundations of the management regime to be progressed in the near term. At the same time, it provides clarity to all water users, iwi/Māori, communities and regional councils about how the more complex and challenging aspects of managing within quantity limits will be addressed to deliver the desired long-term economic and environmental gains.

#### *Policy goal and objectives for managing within water quantity limits*

46. The policy goal is to *ensure the regime for managing within quantity limits maximises the value to society of the water available for use, both now and in the future, while ensuring iwi/Māori rights and interests are considered.*

47. This involves meeting the following objectives:

- a. water is allocated and used efficiently within limits
- b. water moves easily to higher value uses over time
- c. competing uses for available water are dealt with effectively, transparently and equitably
- d. users have clarity and certainty about their water allowances
- e. the allocation regime is easy and cost effective to access and manage, and can adapt to differences between catchments and changes to limits over time

- f. any areas of over-allocation are identified and a feasible and acceptable path to resolution is put in place.

#### *Foundation measures*

48. As discussed above, there are some foundation measures that need to be implemented before more complex and challenging components of the regime can be effectively addressed. While recent water metering regulations are a step in the right direction, they do not apply to the full range of takes that must be accounted for to manage water quantity efficiently and effectively within limits.<sup>4</sup>
49. We recommend that proposals for addressing the foundation measures be included in a discussion document in early 2013 that sets out a water reform strategy. The discussion document will also seek feedback on the degree to which guidance or direction would be sufficient to address current problems.
50. Following feedback on the discussion document, it is expected that decisions on the tools and methods for addressing foundation measures will be made by Cabinet in May 2013. Implementation will commence in mid 2013 and should be largely completed by the beginning of 2016, depending on the tools and methods selected and whether legislative change is required. For example, national environmental standards have taken one to four years to gazette after being released in a discussion document. Regulations under Section 360 of the Resource Management Act 1991 can be developed more quickly.
51. A number of the Forum's recommendations also address the foundation measures required. For example, the Forum notes: *"It is not possible to operate an effective water allocation system without knowing how much water is being taken and whether the conditions attached to authorisations (permits) are being complied with"*.
52. The proposals outlined below for water accounting systems, permit specification, monitoring and compliance, and transition are broadly consistent with the Forum's recommendations. The specific detail relating to implementation and sequencing of the proposals to be included in the discussion document may vary from the Forum's recommendations. This is intended to ensure the most practical and cost effective approach to water reform is taken.

#### Water accounting systems

53. Water accounting involves identifying, collecting, reporting, verifying and publishing information about water and the conditions water use are granted under. It is used by resource managers (and others) to improve:
  - a. understanding of how water resources are sourced, managed and shared
  - b. how information is used regionally and nationally to inform decisions about the allocation and use of resources
  - c. information on the amount of water being used and transferred, what is still available for allocation, and whether objectives and limits are being met.
54. We recommend that the discussion document seek public feedback on a range of ways of improving water accounting systems in New Zealand. As well as improving the management of water at the catchment and regional levels, the intention is to

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<sup>4</sup> The Resource Management (Measurement and Reporting of Water Takes) Regulations 2010 apply to consented takes of greater than 5 litres per second. They do not apply to smaller takes, which in some regions such as Marlborough make up a significant proportion of consents. They also do not apply to takes for which a consent is not required.

improve information available at the national level so future policy for managing within quantity limits is based on robust, reliable and timely information.

55. The proposals for water accounting will be informed by international experience and practice and will address the following issues:

- a. the systems and processes regional councils should implement to account for water takes and use, including:
  - i. common core elements and metrics, such as ground water volumes, surface water flows, consented takes, actual levels of water use, changes in water storage and estimates of other takes including RMA section 14(3)(b) takes (for domestic and stock water), permitted takes and impacts of land use on catchment hydrology where relevant
  - ii. methods for estimating and modelling types of water takes (e.g. domestic and stock water takes, permitted takes, impacts of land use)
  - iii. flexibility to ensure accounting systems reflect the level of pressure on catchment resources
  - iv. how and when changes to water accounting systems should be made to reflect changes in pressure on water resources
  - v. reporting systems and policies to ensure information can be captured and used at the national level
- b. the water takes to be included in the water accounting system, including:
  - i. all types of direct takes, including consented, permitted, and domestic and stock water takes
  - ii. different types of land use that affect catchment hydrology
  - iii. approaches for measuring different types of takes given different levels of pressure on water resources (e.g. metering, modelling and/or estimation techniques)
- c. managing permitted takes and domestic and stock water takes more effectively, including:
  - i. setting rules for permitted takes that ensure they can be managed within limits
  - ii. capping or not allowing permitted takes when the level of pressure on water resources is high
  - iii. reviewing section 14(3)(b) of the RMA (domestic and stock water takes) to determine whether it remains fit for purpose given: the NPS-FM requires limits to be set and water quantity to be managed within limits; growing pressure on some catchments and other users' water allowances as a direct result of these types of takes; and changes in the way communities, individuals and businesses value and use water resources
- d. when the effects on catchment hydrology of different types of land use (e.g. forestry and other tall crops) or changes in land use need to be accounted for and managed within limits to protect other water users' allowances, including:
  - i. accounting for different types of land use within quantity limits in catchments under high pressure

- ii. when and how different types of land use should be managed for their impact on water (e.g. requiring estimation or modelling of the impacts; or requiring land owners to obtain a permit for changing to certain types of land use in catchments where water is under intense pressure)
- iii. managing and providing for changes in land use and subsequent impacts on water takes over time.

#### Monitoring and compliance

56. Improved information on all types of take and the actual amount of water used is vital to allow councils to enforce use within limits. Establishing effective water accounting systems, and (to some extent) the requirements of the Resource Management (Measurement and Reporting of Water Takes) Regulations 2010 will help to improve the information councils have available.
57. We recommend that the discussion document seek public feedback on a range of possible options for improving monitoring and compliance policies and practice, including:
- a. ensuring councils collect adequate information on all types of takes, including:
    - i. approaches to measuring different types of takes in catchments with varying levels of pressure on water resources
    - ii. reviewing existing water metering regulations to assess appropriateness of coverage in high pressure catchments
  - b. improving compliance systems, including:
    - i. initiatives to educate water users about their roles and responsibilities in relation to water take and use under the RMA and associated regulation
    - ii. compliance best practice
    - iii. requiring councils to develop monitoring and compliance plans for managing within water quantity limits and report on progress against these annually
    - iv. reviewing the effectiveness of the offence provisions of the RMA
  - c. improving councils' accountability for monitoring and compliance, including:
    - i. requiring regional councils to report regularly to a central government agency on their performance in enforcing compliance with the water management regime
    - ii. regular auditing by an independent agency of regional council effectiveness in enforcing compliance with the water management regime
    - iii. establishing an independent body to investigate concerns about council performance in relation their monitoring and compliance responsibilities.

#### Specification of permits

58. Improving the way water permits are specified can increase the certainty and confidence users have in their access to water, reduce costs associated with having to interpret their permits entitlements, assist water accounting, and simplify monitoring and reporting.
59. We recommend that the discussion document seek public feedback on a range of possible ways to improve the specification of permits, including:

- a. improving the consistency and clarity of water permits, including:
  - i. core components, that include take amount (volume or flow), take points, reliability of supply and conditions for review or
  - ii. standard templates for water permits
  - iii. publically accessible permit registries
- b. specifying water permits in a way that allows flexibility to respond to changes in the amount of water available (either through natural variations or changes to limits) including:
  - i. guidance based on current best practice or
  - ii. standard approaches based on current best practice
  - iii. requiring permits to be specified as a proportion of the total amount of water available and/or in reliability bands
- c. ensuring permit durations are not unnecessarily short, including:
  - i. guidance on setting appropriate water permit durations
  - ii. reviewing regional council policy and practice for setting permit durations in 2015, once changes to other foundation measures (water accounting systems and monitoring and compliance) are implemented.

#### Improving efficiency of water use

- 60. Improving the efficiency of water use can have significant economic and environmental benefits. There are aspects of improving efficiency, including on farm efficiency that will be addressed in the near term, including supporting the implementation of the NPS-FM requirements.
- 61. We recommend that a discussion document in early 2013 seek public feedback on ways to improve the efficiency of water use within the current management regime, including:
  - a. guidance on implementing the efficiency provisions of the NPS-FM and improving the efficiency of water use
  - b. standard approaches to implementing the efficiency provisions of the NPS-FM and improving the efficiency of water use
  - c. developing sector-based good management practice toolkits.

#### Transition

- 62. The process of moving from the status quo to a more efficient and effective regime for managing water takes and use within limits will take time and may involve costs for resource users and regional councils. There are a number of things that can be done to manage costs and ensure transition occurs over the right timeframe (i.e. not so long as to defer the benefits of change, but not too quick to impose unnecessary cost and hardship). These proposals are likely to involve a stronger role for central government, through leadership, direction and/or support.
- 63. We recommend that a discussion document in early 2013 seek feedback on a range of proposals for managing the transition to an improved water management regime, including:
  - a. identifying and addressing over-allocation of water quantity, including:

- i. information and processes to determine quantity over-allocation, including identifying and estimating the full range of existing takes
  - ii. opportunities for water users to collectively address over-allocation on a voluntary basis
  - iii. tools that can be used to address over-allocation where voluntary measures are not effective within specified timeframes, such as reducing all water takes by an equal share
- b. permit transfer in catchments with over-allocation, including:
- i. preventing or restricting permit transfer in catchments of suspected but un-quantified and poorly understood levels of actual or paper over-allocation
  - ii. enabling transfer in over allocated catchments where the regional plan identifies methods and timeframes for managing down to limits, and sets out how any legal or financial risks will be managed
- c. the treatment of unauthorised takes in moving to a more efficient and effective regime for managing within limits, including:
- i. identifying and bringing unauthorised takes within the management regime
  - ii. the treatment of unauthorised takes within the improved regime.

#### *Longer term issues*

64. These issues are more complex and challenging but are likely to deliver the desired opportunities for significantly improving the economic value generated from water use. Advancing the longer term issues will rely on the foundation measures being in place.
65. The Forum considered many of these issues and gave recommendations on consent duration and the use of alternative allocation tools. The areas where the Forum could not reach agreement were the treatment of water permits on expiry, the extension of permit duration beyond 35 years, and pricing and charging for water.
66. It is important that the discussion document addresses how these issues will be dealt with in the long term. Given the discussion that the Forum had on these issues, stakeholders are likely to question if and when the government is going to address them.
67. Iwi in particular are likely to query when, if at all, their interests in water allocation will be considered, especially as the longer term measures may strengthen the interests of others.
68. We therefore recommend that the discussion document signal a process for progressing the longer term allocation issues:
- a. permit duration (e.g. whether permits for large-scale projects should be given for more than 35 years)
  - b. alternative tools for initial allocation (e.g. tender)
  - c. options for allocating permits on expiry (e.g. adjusting the criteria councils consider to ensure efficient allocation is taken into account)

- d. alternative mechanisms for facilitating permit transfer and trade (e.g. unbundling permits for water take and use, reducing transaction costs, developing trading platforms)
  - e. mechanisms for efficient water use (e.g. national efficiency standards, pricing tools and trading).
69. Progressing these issues over a longer time frame will mean that future decisions will benefit from the ongoing development of information about the potential economic impacts of alternative approaches. It will also allow officials to work alongside regional councils in developing proposals in these areas. This will ensure that a future regime is fit for purpose and does not impose unnecessary cost or burden on councils or water users.
70. Cabinet agreement to a detailed process for addressing long term measures will be sought in May 2013, following feedback on the discussion document. It is expected that work on these measures will accelerate in 2016/17, once the foundation measures have been addressed.

**Views of the Iwi Advisors on proposals for managing within water quantity limits**

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Views of iwi/Māori will also be canvassed as part of public consultation on the approach to water reform early in 2013. Officials' engagement with the Iwi Advisors will inform matters being advanced through Ministers' discussions with the Freshwater Iwi Leaders Group.

### **Risks and mitigations**

76. There may be an expectation from Forum members that the proposals for managing within water quantity limits outlined in the discussion document reflect only the recommendations contained in their report.
77. Officials will use the work contained in the Forum's report as the starting point for proposals aimed at addressing the foundation measures outlined above.
78. The Forum was unable to reach a consensus on many of the longer term measures. However, the report contained some useful information on the different perspectives surrounding these issues that will be drawn on in the discussion document.
79. There is also a risk that some stakeholders may be concerned that the proposals outlined above are not adequate, or will not be implemented quickly enough, to address their concerns. This risk can be managed to some degree by setting out a clear strategy and timeframe for addressing the longer term issues in the discussion document.
80. Finally, the more extensive the changes to the overall approach to managing within limits, the more likely it is that iwi will expect a clarification of and provision for their rights and interests in water resources.

### **Consultation**

81. The following departments and agencies have been consulted on this paper and their views are reflected: Office of Treaty Settlements, Department of Internal Affairs, Te Puni Kōkiri, Department of Conservation, the Treasury, and Ministry of Business, Innovation and Employment. The Department of the Prime Minister and Cabinet was notified of this paper.
82. The proposals in this paper have been informed by the Forum's recommendations.
83. The views of the Freshwater Iwi Advisors Group are noted in this paper.

### **Financial implications**

84. There are no financial implications arising directly from this paper. However, proposals that will be included in the discussion document relating to water accounting systems, monitoring and compliance, specification of permits, improving

efficient use of water and managing transition are likely to have financial implications for the Ministry for the Environment and the Ministry for Primary Industries.

85. Decisions will be made on how the proposals will be implemented following public consultation. Estimates of the costs of different implementation approaches are set out in the table below.

<b>Proposal</b>	<b>Financial implications (estimate)</b>
<u>Guidance</u>	\$0.04 - \$0.1m
<u>Implementation support for councils</u>	up to \$0.1m
Good management practice	\$0.5 - \$1m
National Environment Standard	up to \$0.65m

86. Proposals may also impose some increased costs on councils, which they are likely to pass on to water permit holders or ratepayers depending on the nature of the costs. These costs may include operating costs associated with implementing the proposals and capital costs associated with establishing new systems. Where catchments are close to or fully allocated, there may be additional costs associated with more stringent management requirements.
87. There may also be some additional costs to permit holders (and potentially other water users). These will primarily be compliance costs associated with provision of additional information, but may also include the cost of installing a meter in catchments that are under significant pressure.
88. Cost estimates and any funding proposals for the full water reform package will be further developed in advance of final decisions and, where appropriate, considered in agencies' 2013 Four-Year Plans and associated reprioritisation processes. At this stage, it is unclear how these costs may be distributed across Votes. Officials' objective is to manage within baselines where possible.

### **Human rights**

89. The proposals contained in this Cabinet paper are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

### **Legislative implications and regulatory impact analysis**

90. There are no legislative implications arising directly from this paper. Some of the elements of a future reform package are likely to have legislative implications. The regulatory impact analysis requirements do not apply to this paper as it does not seek substantive policy decisions. A regulatory impact statement will be prepared to support any future Cabinet consideration of options.

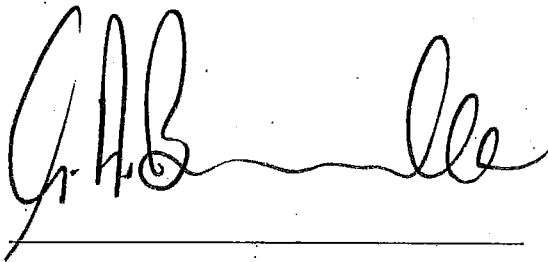
### **Publicity**

91. No publicity is proposed.

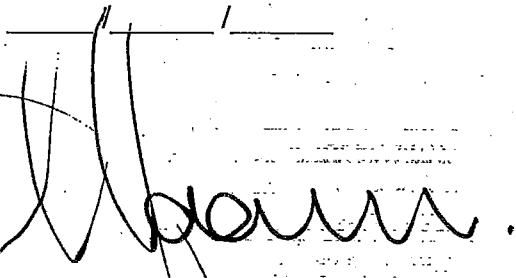
## Recommendations

92. The Minister for Primary Industries and the Minister for the Environment recommend that the Committee:
1. note that on 19 November 2012 Cabinet agreed in principle that Government consult, through a discussion document in early 2013, on proposals to implement a water reform strategy that includes reforms to governance, setting objectives and limits, and managing within limits for both quality and quantity [EGI Min (12) 26/2]
  2. note that this paper has built on the platform provided by the Land and Water Forum's recommendations in their second and third reports, discussions with the Freshwater Iwi Advisors Group and further work undertaken by officials
  3. agree that:
    - 3.1. the policy goal of a water reform strategy in relation to managing within water quantity limits is to ensure the regime for managing within quantity limits maximises the value to society of the water available for use, both now and in the future, while ensuring iwi/Māori rights and interests are considered
    - 3.2. this will involve meeting the following objectives:
      - 3.2.1. water is allocated and used efficiently within limits
      - 3.2.2. water moves easily to higher value uses over time
      - 3.2.3. competing uses for allocable water are dealt with effectively, transparently and equitably
      - 3.2.4. users have clarity and certainty about their water allowances
      - 3.2.5. the allocation regime is easy and cost effective to access and manage, and can adapt to differences between catchments and changes to limits over time
      - 3.2.6. any areas of over-allocation are identified and a feasible and acceptable path to resolution put in place.
  4. agree that the policy goal and objectives in recommendation 3 be reflected in the preparation of the discussion document referred to in recommendation 1
  5. agree that the discussion document include proposals to address the following foundation measures in relation to managing to water quantity limits
    - 5.1. improving water accounting systems to ensure they account for all types of water takes within limits
    - 5.2. ensuring sufficient monitoring and compliance measures are in place to support an efficient and effective allocation regime
    - 5.3. addressing the specification of water permits to provide users with adequate certainty and confidence to invest and innovate
    - 5.4. improving the efficiency of water use to support the implementation the efficiency provisions of the NPS-FM
    - 5.5. matters relating to transition, including addressing over-allocation and unauthorised use

6. agree that the discussion document signal how the following longer term issues will be addressed over the next several years
  - 6.1. permit duration (e.g. whether permits for large-scale projects should be given for more than 35 years)
  - 6.2. alternative tools for initial allocation (e.g. tender)
  - 6.3. options for allocating permits on expiry (e.g. adjusting the criteria councils consider to ensure efficient allocation is taken into account)
  - 6.4. alternative mechanisms for facilitating permit transfer and trade (e.g. unbundling permits for water take and use, reducing transaction costs, developing trading platforms)
  - 6.5. mechanisms for efficient water use (e.g. national efficiency standards, pricing tools and trading).
7. note that in December 2012 the Minister for Primary Industries and the Minister for the Environment will report to Cabinet with an overview of the package of proposals to be included in the water reform strategy discussion document, as decided in this and the companion papers. and an overview of how iwi rights and interests may be considered
8. note that the Minister for Primary Industries and the Minister for the Environment will report to Cabinet in early 2013 seeking approval for the release of the public discussion document on water reform that sets out proposals for implementing a water reform strategy
9. invite the Minister for Primary Industries and the Minister for the Environment to report to Cabinet in \_\_\_\_\_ with recommendations for the implementation of a water reform strategy.



Hon David Carter  
**Minister for Primary Industries**



Hon Amy Adams  
**Minister for the Environment**

29 / 11 / 12





