

Chair  
Cabinet Business Committee

## Progressing Water Reform – the second report of the Land and Water Forum

### Proposal

1. This paper reports back on the Land and Water Forum's second report and outlines further work on the policy directions presented in this report:
  - a. greater central government direction on setting freshwater objectives and limits under the National Policy Statement for Freshwater Management 2011
  - b. a collaborative planning model for developing freshwater planning and policy instruments.

### Executive summary

2. The Government commenced its water reform process in mid 2009. This process is aimed at addressing the risks to the economy and environment posed by poor management of our fresh water resource and capitalising on the opportunities for economic growth that this resource provides. As part of reform process, the Land and Water Forum (the Forum) was asked to provide advice on reform options. In 2011 water reform was repackaged as Fresh Start for Fresh Water (FSFW), a three tranche programme for designing and implementing an improved freshwater management regime.
3. In April 2012, the Forum presented its second report *Setting Limits for Water Quality and Quantity, Freshwater Policy- and Plan-Making through Collaboration to Ministers*. This report contributes to tranche two of FSFW. The Forum's report contains 38 recommendations focused on setting objectives<sup>1</sup> and limits<sup>2</sup>, collaborative decision-making, and more responsive planning processes. The main policy intent of the report is:
  - a. greater central government direction on the setting of freshwater objectives and limits (including nationally set objectives on human health and life-supporting capacity) under the National Policy Statement for Freshwater Management 2011 (NPS-FW).

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<sup>1</sup> Freshwater objectives describe the state of the water body that is needed to provide for the values or outcomes sought, e.g. specifying the water quality and flow regime necessary to allow for swimming at certain times of the year but still enabling farming to continue in the catchment. They can be either numeric or narrative (descriptive). They can also provide for economic as well as environmental outcomes.

<sup>2</sup> Limits are derived from objectives, and specify the maximum amount of resource that is available for use. For example, setting a maximum load in tonnes per year for phosphorous and nitrogen loads in a catchment, or specifying the total cap on water that can be taken at any point in time.

- b. a collaborative planning model for developing freshwater-related planning documents (e.g. regional policy statements and regional plans) under the Resource Management Act 1991 (RMA). The model would not be compulsory and regional councils could opt out and use the current RMA planning process.
4. Both of the approaches proposed by the Forum fit within, and contribute to, the Government's wider goals for fresh water and economic growth, and link with ongoing work on local government and resource management reform. The key benefits of the Forum's recommendations are:
  - a. greater central government direction on objectives and bottom lines would provide greater clarity to regional councils, and reduce effort and debate at the regional level. This should improve the effectiveness of the NPS-FM while reducing the cost of its implementation for both government and stakeholders
  - b. a collaborative, stakeholder-led model for freshwater policy and planning has the potential to reduce adversarial and litigious behaviour, provide better and faster planning outcomes and reduce resource consenting costs.
5. These approaches have been assessed against a range of other options. We consider that, on balance, the Forum's proposals provide the greatest overall benefit. Further information and analysis is however required to determine the most effective way to implement the proposals and to fully understand and manage the implications of different options. For example, the choice of level for 'bottom lines' for national objectives will have significant environmental and economic implications, including impacts on land use. Officials' work may suggest alternatives to the Forum's detailed recommendations.
6. This paper outlines the work to progress tranche two of FSFW. Officials will lead development of further detailed work on limit setting and governance. This will include collaboration with the Forum, Iwi Advisers and local government. We propose to report back to Cabinet on this work in November 2012.
7. Note that a Cabinet Strategy Committee meeting is scheduled in July for a broader discussion on the fresh water reform process, and the rationale for further reform.
8. We also expect to report back in November on the Forum's final report on managing within limits (allocation and managing the effects of land use) and a national strategy, which contributes to tranche three of FSFW. At that time, Cabinet can consider some final decisions on the package as a whole. Any legislative change resulting from the November report backs is expected to be introduced in 2013.
9. Although regional councils have commenced work to implement the NPS-FM, most are unlikely to have made significant progress by the time Cabinet makes policy decisions on freshwater reform. Regional councils are members of the Forum and in close contact with central government, and so are aware of the possible nature of future reform.

## Background

### ***Fresh Start for Fresh Water***

10. Freshwater reform is needed to address the risks to the economy and environment posed by poor management of our fresh water resource and to better capitalise on the opportunities for economic growth that this resource provides.
11. In 2009, the Government established a strategic direction for freshwater reform that included greater central government direction, the setting of limits to manage both water quality and quantity, and improved involvement of Māori in resource management processes. This included the commissioning of advice from the Forum – a collaborative group with wide-ranging membership across all sectors with an interest in water – on freshwater reform [CAB Min (09) 20/12].
12. The Forum delivered its first report in September 2010. In May 2011, Cabinet approved FSFW, a three tranche programme for designing and implementing an improved freshwater management regime, including:
  - a. tranche one – gazetting the NPS-FM, agreement to further work to improve implementation of the NPS-FM, and establishing the Fresh Start for Fresh Water Clean-up Fund and Irrigation Acceleration Fund
  - b. tranche two – setting limits for water quality and quantity, including governance arrangements for freshwater planning processes.  
*Recommendations on these are contained in the Forum's April 2012 report and are the subject of this paper*
  - c. tranche three – how to manage to limits, including allocation mechanisms and additional tools to manage the effects of land use, and consideration of a national freshwater strategy. The Forum is due to deliver this report to Ministers in September 2012 [CAB Min (11) 18/9 refers].
13. All three tranches of work are interdependent. For example, if a binding limits regime is to be adaptive enough to encourage economic growth and development within environmental limits, then it needs to be supported by an allocation system that provides for new entrants and allows for new land and water uses. Regional methods for managing within limits may also need to change as limits are approached, to ensure that where freshwater is scarce it is used in a way that generates the best overall value.

## Comment

### ***Constituency for change***

14. The members of the Forum have achieved considerable success in using a collaborative approach to progress the Government's strategic direction for fresh water. They have succeeded in building consensus around solutions to some of the long-running problems in freshwater management highlighted in the FSFW programme.

15. Government, the Forum, and Iwi Leaders have invested a significant amount of time and commitment to the process to date. Walking away from this approach to developing solutions to fresh water management issues would be difficult and cost considerable social capital with Forum members and Iwi Leaders. The loss of the constituency for change would make it significantly more difficult for the Government to secure the environmental and economic gains intended in its 2009 strategic direction for fresh water.
16. We are comfortable with the general direction outlined in the work of the Forum to date. The work follows the strategic direction we have set for fresh water and will provide Cabinet with robust advice to make decisions on a water reform package in November 2012.

***Second Forum report: Setting Limits for Water Quality and Quantity, Freshwater Policy- and Plan-Making through Collaboration***

17. The Forum provided the Minister for Primary Industries and the Minister for the Environment with its second report on 30 April 2012. This report includes 38 recommendations that cover setting objectives and limits, collaborative decision-making, plan agility and transition. The report was publicly released on 18 May 2012.
18. The main policy directions recommended in the report are:
  - a. *setting objectives and limits*: more central government direction on setting freshwater objectives from which localised limits are derived, with some of the hard decisions being made once at a national level, rather than through debate repeated across multiple regions and catchments
  - b. *planning and governance*: a collaborative planning model for developing freshwater-related planning documents (e.g. regional policy statements and regional plans) under the RMA. The model would not be compulsory and regional councils could opt out and use the current RMA planning process.

***Progressing Fresh Start for Fresh Water – tranche two***

19. The policy directions proposed by the Forum have been assessed against alternative approaches, ranging from small scale, non-statutory options to highly prescriptive regulatory reform. Analysis of the different impacts of the options suggests that an approach that implements the Forum's intent, with some amendments to the detail, will both meet the objectives of the FSFW programme and provide the greatest overall benefit.
20. We are supportive of the general policy direction recommended by the Forum. However, before we ask Cabinet to make final decisions we need to better understand both the economic and environmental implications of different design options, and determine the most effective way to implement these. To this end we have asked officials to develop the detail of the policy and conduct further analysis. This analysis may suggest alternatives to the Forum's detailed recommendations.

21. We will report back to Cabinet on this work in November 2012. We will also report back to Cabinet in November 2012 on the Forum's report on tranche three (due to Ministers in September 2012). These two reports will allow Cabinet to make some final decisions on the shape of the overall reform package for FSFW, although we anticipate that some further work on detail arising out of tranche three may be required. Matters requiring legislative amendment should be progressed in November 2012 to allow for introduction of legislation in 2013.

### ***Effective and efficient NPS-FM implementation: setting objectives and limits***

#### **Current situation**

22. The NPS-FM (which came into effect in July 2011) requires councils to manage water in an integrated and sustainable way while providing for economic growth. This includes a requirement to set objectives and limits for all bodies of fresh water as promptly as is reasonable in the circumstances and by no later than December 2030. This implementation timeframe allows councils to prioritise the setting of limits in different catchments depending on pressures and council resources and also allows for councils to wait until central government reform is more advanced. This is not the date by which all resource use must be within limits; targets over a longer defined timeframe can be used to allow more gradual economic adjustment to limits.
23. The NPS-FM also requires that councils safeguard life-supporting capacity, protect outstanding water bodies, maximise efficient allocation (including phasing out existing over-allocation), and provide for the involvement of iwi and hapū to ensure tāngata whenua values and interests are reflected in planning decisions.
24. As was signalled when the NPS-FM was agreed by Cabinet in 2011, the efficient and effective implementation of the NPS-FM requires further specificity and guidance from central government. There are a number of decisions that councils will need to make to implement the NPS-FM. Many of these are high-stake decisions that have the potential to become caught up in lengthy and costly debates about:
  - a. providing for national and tāngata whenua values
  - b. what exactly is needed to comply with the requirements in the NPS-FM, including safe-guarding the life-supporting capacity of fresh water
  - c. how effective and enforceable limits should be set
  - d. how to implement the requirement to maintain and improve overall water quality within a region.
25. There is the added risk that if these decisions are not made in regional plans they will continue to be made on an ad hoc basis when individual consents are applied for. This would leave councils, resource users and other stakeholders open to ongoing litigation. There is also a risk that councils will struggle to create the political will to implement the NPS-FM effectively at the local level without further central government direction and leadership.

26. Rollout of the NPS-FW has addressed the likelihood of further changes to limit-setting and allocation that will influence implementation. Although there is a risk of regional council “early movers” developing detailed policy in advance of further central government reforms, this is outweighed by the risks of their inaction. Considerable preparatory work by councils is required for effective implementation of the NPS-FW, and much of this work can proceed before final decisions on freshwater reform.

**The Forum’s overall intent for setting objectives and limits: supporting regional councils through greater central government direction**

27. In order to assist regional councils to implement the NPS-FW, the Forum recommends that central government make some of the hard decisions required by the NPS-FM at a national level. The critical aspects of this include:
- a. a description of tāngata whenua values
  - b. adding a national-level freshwater objective for human health (e.g. manage risks to human health from bacteria and toxic contaminants), and including some national numeric bottom lines for both human health and life-supporting capacity
  - c. defining what is meant in the NPS-FM by ‘maintaining and improving’ overall water quality and a possible regime for exceptions from the requirement
  - d. providing uniform technical processes for defining freshwater objectives and setting limits within regional planning processes
  - e. requiring councils to use rules in regional plans to set enforceable and binding limits that ensure that freshwater objectives are met, including through the use of prohibited activity status where limits are fully allocated.

**Wider implications of greater central government direction in setting objectives and limits**

28. This approach would improve on the status quo by:
- a. providing a national minimum standard for water quality that safeguards life-supporting capacity and preserves options for human use
  - b. restricting the scope of some regional level decisions (where it is more efficient to make a decision once at the national level)
  - c. providing greater central government direction on how the NPS-FM is to be implemented effectively
  - d. ensuring important regional decisions are made at the planning stage and not through individual resource consent applications, thus providing certainty for resource users and reducing the risk of poorly managed cumulative effects.

29. In practice this would mean that:
- a. **central government** would decide on and set some national objectives and bottom lines that apply to all water bodies. The science to support the development of bottom lines for these matters is already available. How the science is best used would be agreed at a national level, through scientific consensus, rather than through continued litigation at the regional level.
  - b. **regions** would need to set their own objectives in addition to objectives set nationally, to address matters other than human health and life-supporting capacity (e.g. they may want to ensure that particular water bodies have water quality suitable for swimming or fishing). In setting objectives, regions will need to balance their economic objectives with the environmental outcomes sought. Regions would then set enforceable, binding, local limits to achieve all these objectives. While binding limits are implicit in the NPS-FM, the Forum's recommendations would ensure national consistency and reduce the risk of councils being legally challenged.
30. Overall, this approach would support the achievement of NPS-FM objectives.

#### **Opportunities, risks and costs associated with the approach to setting objectives and limits**

31. There are a range of potential risks and opportunities that will be explored as the policy is developed further. These will become clearer as more detailed options and scenarios are developed and assessed.
32. The nature and degree of impact of national bottom-lines will depend on where they are set and how the national framework operates. As the detail of the national framework is developed, an assessment will be undertaken of how the current state of fresh water compares with potential bottom lines, and the level of adjustment that may be needed (bearing in mind that regions have some flexibility under the NPS-FM on the time allowed to achieve freshwater objectives).
33. Proper implementation of the NPS-FM already requires some form of a binding approach to limits to avoid over-allocation and manage cumulative effects. This will have an eventual impact on land use. The form of this impact may vary depending on the method used to achieve the binding limits (such as use of prohibited activity status). We need to do further assessment of the implications of different methods available to fully understand the range of potential impacts.
34. Some of the Forum's recommendations could, if poorly implemented by central and local government, result in high compliance costs or unnecessarily constrain economic development. This risk is managed by recommending that further work is necessary before asking Cabinet to commit to implementation of the Forum's recommendations.
35. Many historical Treaty of Waitangi claims have raised concerns about the effects of poor management of freshwater on cultural values. The proposals for stronger national direction will help address those concerns, and greater central government involvement also has the potential to strengthen the Crown's relationship with iwi in this area.

## **Further work to provide greater central government direction in setting objectives and limit setting**

36. Further work will need to consider the national values that are to apply to all freshwater bodies (i.e. safeguarding life-supporting capacity and managing risks to human health) and setting national bottom-lines for those values. The work will also include a detailed analysis of the economic implications of different options to meet the Forum's intent.
37. There would also be value in further analysis of measures, in addition to those recommended by the Forum, in these areas:
  - a. defining the 'maintain or improve' objective in the NPS-FM. The Forum had specific detailed recommendations which may not result in the most effective or equitable approach. We understand that the Forum's intent is to stop freshwater bodies being allowed to degrade to the proposed national bottom-lines, but this may be able to be achieved through a different approach
  - b. setting of default numeric objectives that apply only when a council decides to manage for a particular national value (e.g. swimming, mahinga kai, fishing). These objectives would **not** apply everywhere, but would provide some 'off the shelf' classifications or definitions to be incorporated into regional plans once local values are determined through the local planning process. This could be more cost-effective overall, less open to litigation and more readily understood by communities
  - c. providing guidance on the use of mātauranga Māori in objective and limit setting to support councils and local iwi to give effect to the 'tāngata whenua values and interests' objective of the NPS-FM through regional plans. The Forum's specific recommendations would likely have only limited impact on decision-making
  - d. setting expectations for monitoring and reporting to ensure transparency around progress towards objectives and provide councils with guidance on the level of monitoring required to demonstrate compliance with NPS-FM objectives.

## ***Improving decision making: collaborative planning and governance***

### **Current Issue**

38. Regional councils are responsible for setting limits in water plans. In doing this, the NPS-FW directs councils to take reasonable steps to involve and work with iwi and hapū in the management of fresh water.
39. The elected representatives on regional councils are best placed to make the political and values-based decisions about planning outcomes. However, some regional councils have struggled to produce robust plans that set clear and effective frameworks for resource management. This can result in uncertainty for communities and land users, increased costs for participants, and potentially poor outcomes for the regional environment and economy. Poor planning outcomes can also lead to increased costs, delays and conflict at the resource consent stage.

40. Some causes of these problems include:
- a. a planning system that incentivises adversarial behaviour with de novo (from the beginning) appeal rights to the Environment Court, rather than early engagement between different interests
  - b. capacity and capability challenges for regional councils to deal with difficult planning issues, especially where there is a lack of national direction
  - c. the difficulty of making effective and long term resource management decisions within the short term local government political cycle
  - d. decision makers sometimes lack the required technical information.

**The Forum's overall intent on planning and governance: a collaborative model for freshwater planning and iwi involvement in decision-making**

41. The Forum recommends establishing a collaborative, stakeholder-led model for freshwater policy and plan development. The collaborative model includes a clear role for councils, the collaborative stakeholder group and iwi. They recommend that iwi have a role in both the collaborative process (including the selection of the members of the collaborative group) and in the final council decision-making process.
42. This model would be available as an alternative to the current planning process. There would be a presumption for councils to use the collaborative process for water-related policy and plan changes, with the ability to opt-out.

**Wider implications of the Forum's approach to planning and governance**

43. If successfully implemented, this approach should create more collaboration and buy-in to freshwater plans, with early engagement between different interests. This will make it easier to plan for the long term, and reduce the litigation of plans through the Environment Court. The robustness of the process will support councils to manage difficult planning issues and should also lead to higher quality decisions and effective objectives and limits in plans.
44. In practice, the balance of responsibility for decision-making on freshwater planning will shift from the courts to councils, guided by the community, iwi and stakeholders. This will mean that elected community representatives rather than courts are making the critical choices on the values and objectives to be reflected in freshwater plans.
45. Collaboration is increasingly seen as a compelling alternative to current litigious and expensive planning approaches. It is a model that has been tried successfully both in New Zealand and overseas. Some councils, e.g. Hawkes Bay and Tasman, are already using collaborative approaches to water management. Environment Canterbury is also using a collaborative, stakeholder-led approach to water planning through the Canterbury Water Management Strategy and their Zone Committees. The changes recommended by the Forum are focused on providing legislative incentives to use a collaborative model, and lessening the potential inefficiencies in the current RMA process.

46. To facilitate its success, central government will need to support councils and communities to implement the collaborative planning model. Options for this would not need to be financial and could include implementation support through practice guides, targeted assistance or access to specialist skills (e.g. facilitation, negotiation or scenario development).
47. The Forum's approach provides for iwi to have a stronger role in planning and decision-making and would facilitate councils meeting the objective and policies of the NPS-FW as they relate to tāngata whenua roles and interests. This has the potential to provide a clear role for iwi in water management without the requirement to first negotiate a Treaty settlement. This proposal should not in any way undermine the governance arrangements in existing Treaty settlements, or prejudice settlement discussions now or in the future. Further work and engagement with the Iwi Leaders Group is necessary to develop the detail of this proposal.

### **Opportunities, risks and costs of the Forum's approach to planning and governance**

48. The main risk is around the capability of local government to implement the new planning model. This has yet to be fully explored. This risk can be mitigated by engagement with local government and stakeholders (via the Forum) on the workability of the model, and central government support and guidance.
49. There is also a risk that some councils will choose not to use the proposed planning model, as they have the ability to opt-out. Although this risk could be mitigated by making the model compulsory, on balance it is preferable for local government to make the decision on what is best for their circumstances.
50. Further work is required on whether a collaborative planning model will be more cost-effective than the status quo. The Forum's proposal may require new skills and resources from some councils, such as facilitation expertise or new ways of bringing technical information into planning, although the costs of some existing parts of the planning process may decrease. It is likely that the costs will vary significantly depending on the nature and scale of the plan change.
51. The Forum's proposals provide the opportunity to improve Crown-Māori relationships, through developing robust expectations of, and processes for, iwi involvement in the development and decision-making around resource planning.

### **Further work a collaborative model for freshwater planning and iwi involvement in decision-making**

52. We have asked officials to look at how a collaborative planning model will work in practice and the role of iwi in freshwater planning and decision-making. This work will include:
  - a. how to ensure issues of national significance are provided for in regional decision-making
  - b. the nature and definition of "consensus" in the collaborative stakeholder group
  - c. whether use of the collaborative planning model solely for water is viable, or whether the model should be more widely available under the RMA
  - d. ensuring public involvement in the planning process
  - e. implementation and practice issues to make the process work – e.g. the use of information (including scientific expertise), process safeguards, the accommodation of existing Treaty settlement provisions, and the resources and skills required to support collaborative planning.
53. There are some areas where further work may find that the best way to implement the Forum's intent is different from the detail recommended by the Forum. These include:
  - a. limiting appeal rights: the Forum did not reach a consensus on what appeal rights should be available under its proposed model. Allowing merit appeals in a collaborative model will reduce the incentives for councils to adopt the collaborative approach, and for stakeholders to participate in good faith
  - b. using a collaborative model, based on the regional planning process, at the national level to develop National Environmental Standards and National Policy Statements: we consider there is value in using collaborative approaches to develop national instruments, but the model recommended may not be the right one in all circumstances
  - c. clarifying how the public will be involved in the proposed model.

### **Working with the Forum, iwi and local government**

54. Officials will lead the next stage of work and test the practicality and implications of the detailed options with members of the Forum, local government and the Iwi Advisors Group.
55. The Forum has indicated they would like an ongoing role in developing options for the national objectives framework. Though officials will lead development of this advice, we are considering options for how to involve the Forum in this work.
56. We have an existing commitment to work with the Iwi Leaders Group on the FSFW programme. Officials will also work with the Iwi Advisors Group in developing the detailed options set out in this paper.

57.

58. Cabinet has previously noted that wider consultation with Māori will be needed before major decisions are made [EGI Min (09) 20/6 refers]. A plan for consultation with Māori beyond the Iwi Leaders Group will be developed in conjunction with the proposals for broader resource management reform.

#### **Links to claims in the Waitangi Tribunal**

59. The Waitangi Tribunal is currently considering an urgent contemporary claim concerning the sale of power generating state-owned enterprises and national freshwater and geothermal resources: the National Fresh Water and Geothermal Resources Inquiry (Wai 2358).
60. In deciding to grant urgency, the Tribunal did not recommend that the Crown cease policy work or engagement with the Iwi Leaders Group. The timetable for receiving a report from the Tribunal on the water aspects of the claim is currently unclear, with the first set of hearings (largely focused on the mixed ownership model) not scheduled until July 2012.
61. The Crown's ability to consider and respond to any recommendations from the Tribunal on FSFW will not be affected or pre-empted by the recommendations in this paper. There will be an opportunity to revisit any matters raised by the Tribunal in the further Cabinet report back on the broader FSFW package scheduled for November 2012.

#### **Links with Resource Management Act and Local Government Act reform**

62. The FSFW programme is part of the Government's broader resource management reforms, and we will need to consider the alignment between the freshwater proposals and the broader reforms. Further advice will be provided in the context of the resource management reforms.
63. The Better Local Government reform programme, led by the Department of Internal Affairs (DIA), may also address some of the issues identified in the FSFW programme and the broader resource management reforms. This programme aims to improve efficiency in local government and maximise the contribution the sector can make to building a stronger New Zealand economy.
64. Agencies will continue to work together to ensure these work programmes are aligned. The work of the Local Government Efficiency Taskforce, which will consider council planning, consultation and decision-making processes, the development of a framework for central and local government regulatory roles, and a review of the efficiency of the provision of local government infrastructure (including water infrastructure) is likely to be of particular relevance.

#### **Further discussion with Ministers**

65. The complexity of water reform issues means that further discussion between Ministers is required prior to the next phase of Cabinet decisions. We propose further discussions between Ministers with a portfolio interest in water as the policy development progresses.
66. Note that a Cabinet Strategy Committee meeting is scheduled in July for a broader discussion on the fresh water reform process, and the rationale for further reform.

## **Consultation**

67. The Treasury, Department of the Prime Minister and Cabinet, Office of Treaty Settlements, Ministry of Economic Development, Department of Conservation, Department of Internal Affairs, Ministry of Health, Te Puni Kokiri and the Ministry of Science and Innovation were consulted during the development of this paper. The Crown Law Office was informed.
68. The contents of a draft of this paper were discussed with the Chair of the Land and Water Forum.
69. Lead Ministers are in ongoing discussions with the Iwi Leaders Group on the next phase of work.

## **Financial implications**

70. Any funding implications that may result from the further work in this paper will be explored as the work progresses.

## **Human rights**

71. There are no human rights implications in this paper.

## **Legislative implications**

72. There are no legislative implications from this paper. Consideration of legislative tools would be subject to further Cabinet decisions.

## **Regulatory impact analysis**

### *Regulatory Impact Analysis requirements*

73. The Regulatory Impact Analysis (RIA) requirements do not apply to this paper.

## **Publicity**

74. We recommend that a copy of this paper and the associated Cabinet Minute, with any appropriate withholdings, be made available on the Ministry for Environment and Ministry for Primary Industries websites.

## **Recommendations**

75. The Minister for Primary Industries and the Minister for the Environment recommend that the Committee:
  1. **note** that the Land and Water Forum (the Forum) reported on 30 April 2012 with proposals for setting limits for water quality and quantity and plan making through collaboration

### *Limit setting*

2. **note** that officials will undertake further design and analysis on, and explore the implications of, the Forum's recommendations to:
  - 2.1. set a national objective relating to managing risks to human health, to apply to all freshwater bodies
  - 2.2. establish a national framework of national bottom-line objectives for safeguarding life-supporting capacity and managing risks to human health
  - 2.3. define what the National Policy Statement for Freshwater Management (NPS-FM) objective to 'maintain or improve' overall water quality within a region means for individual water bodies and providing direction on potential exceptions to this requirement
  - 2.4. provide uniform technical processes for defining freshwater objectives and setting limits within the regional planning process
  - 2.5. provide national direction on other freshwater values, which would only be applicable when a region made a decision to manage a water body to meet that particular value
  - 2.6. ensure that the binding limits required under the NPS-FM are enforceable (noting that the Forum's approach to this was to require activities that breach a limit to have prohibited activity status)
  - 2.7. provide guidance on the use of mātauranga Māori
  - 2.8. clarify expectations for efficient and effective monitoring and reporting.

### *Collaborative planning and governance*

3. **note** that officials will undertake further design and analysis on, and explore the implications of:
  - 3.1. a collaborative planning model (with the option to opt out) for regional councils to use in developing freshwater-related planning documents under the Resource Management Act 1991 including:
    - 3.1.1. options for restricting merit appeal rights
    - 3.1.2. a model that can be used for the development of national instruments under the RMA
  - 3.2. better provision for iwi participation throughout the freshwater planning process, including some form of participation in the final decision of the statutory decision-making authority


### *Progressing the next stage of work on limit-setting and governance*

4. **note** that in all further work specified under recommendations 2 and 3, officials will use the Forum's recommendations as the starting point
5. **invite** the Minister for Primary Industries and the Minister for the Environment to report back to the Economic Growth and Infrastructure Committee by 30 November 2012 on matters set out in recommendations 2 and 3, in parallel with the report back on tranche three of the Fresh Start for Fresh Water programme

6. **agree** that officials will lead the detailed work on options for a national objectives framework, while engaging with the Forum and the Iwi Advisers Group
7. **agree** that the Minister for Primary Industries and Minister for the Environment will approve Terms of Reference for the Forum's further engagement in work on limit setting
- 8.
9. **agree** that the Minister for Primary Industries and the Minister for the Environment may approve targeted consultation with other groups
10. **agree** that this paper and the associated Cabinet Minute, with any appropriate withholdings, be released by publishing them on the websites of the Ministry for Primary Industries and the Ministry for the Environment
11. **note** that the recommendations in this paper do not affect the Crown's ability to consider and respond to any recommendations from the Waitangi Tribunal on the National Fresh Water and Geothermal Resources Inquiry (Wai 2358)

*Next tranche of Fresh Start for Fresh Water*

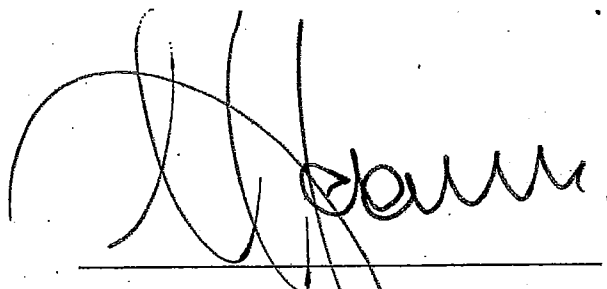
12. **note** that:
  - 12.1. the Forum is scheduled to report to the Minister for Primary Industries and the Minister for the Environment in September 2012 on managing within limits (allocation and effects of land use on water) and a national strategy
  - 12.2. a report back to Cabinet on the Government's response to the final Forum report is scheduled for 30 November 2012
13. **agree** that Ministers with a portfolio interest in freshwater meet regularly to discuss progress with policy development.



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Hon David Carter  
Minister for Primary Industries

28 / 6 / 2012



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Hon Amy Adams  
Minister for the Environment

28 / 6 / 12

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