

Freshwater Leaders Group meeting 23 October 2018

Front & Center Conference Rooms 9.30 – 4.30

Attendees: John Penno (Chair), Bryce Johnson, Corina Jordan, Mandy Bell, Professor Nicola Shadbolt, Stephanie Howard, Gary Taylor, Tom Lambie, Dr Hugh Logan, Graeme Gleeson, Marnie Prickett, Dr Marc Schallenberg, Alison Dewes, Allen Lim.

MfE officials: Roger Bannister, Lucy Bolton, Martin Workman, Jo Burton, Paula Holmes and Jo Mason

Apologies: Lees Seymour, Traci Houpapa, Nick Vincent

Welcome and Introduction

1. There was a discussion on how the Freshwater Leaders Group (FLG) will operate and the expectations for working together.
2. It was recognised that the FLG was comprised of people with strong views and everyone brought different experiences to the table. It is important that the group uses its diversity to learn through this process. Members should approach each meeting open to changing their views.
3. The FLG is not seeking consensus but to identify and record different viewpoints. Any agreements reached will be recorded at the time. If contentious, the range of views will be recorded with the rationale and evidence.
4. When Ministers (Parker and O'Connor) receive advice this will reflect all advice from all groups and record the range of views within groups. It is important that the FLG is happy with the way their views are recorded.
5. There was a discussion on how the FLG would communicate with Ministers. The Chair stated there would be regular discussions with Ministers and they might be invited to hear the group discussion at critical moments.
6. Minutes for the FLG will be a public record. Minutes will be distributed quickly after a meeting. The FLG will approve accuracy.
7. The aim of this meeting was to sketch out the FLG's work programme.
8. There was a discussion on how the FLG will coordinate with, and learn from, the Science Technical Advisory Group (STAG) and Kahui Wai Māori. It was noted that there is overlap with other groups (Traci is on Kahui Wai Māori and Mark is on the STAG). These members could provide an update of the other groups' progress at the beginning of each meeting.
9. FLG also noted that Stephanie is a member of the Primary Sector Council and would provide a useful link to their thinking.

Agenda item No 5 - Operational Advice

Conflict of interests

10. There was a discussion on declarations of conflicts of interest. It was decided that members would list major interests. This would include where necessary business or share ownership connected to items being discussed. Conflicts will be circulated to the group. This would not include declarations of magnitude of financial interest.
11. It was noted that this was an advisory group not making decisions, but that an open and transparent approach to conflicts of interest would help with trust and building confidence. Alison tabled a template form that could assist with declarations.
12. MfE will send round information to clarify how to declare conflicts. This will include legal requirements and principles around this process.
13. It was suggested that individuals could also declare interests as it became relevant in conversations. This would be included on future agendas and could be used as a prompt in the moment.

Information on expenses

14. Not everybody is eligible for the per diem if paid by a government agency. Members should talk to Roger Bannister at MfE (roger.bannister@mfe.govt.nz) if they have questions about this.
15. Claims forms should be provided to Lucy Bolton (lucy.bolton@mfe.govt.nz) along with receipts or mileage and bank account details. Electronic claims forms were requested.

Distribution of papers

16. Papers will be sent round before the meeting electronically (unless paper copies requested) 3 days before the meeting. Paper copies would not be provided at meetings.
17. MfE are establishing a website based portal where documents will be available. This will allow online sharing of information and discussions.

Update on STAG

18. Dr Mark Schallenberg provided an update of the STAG's meeting on 18 and 19 October. He will circulate his report to the FLG and a Massey report he referred to.
19. There was a question about whether all groups' minutes could be circulated to all groups. The FLG agreed that their minutes could be circulated to other groups.

20. There were concerns about interactions between the groups and particularly that there may be four disparate groups. It was noted that the FLG needs to understand science when providing feedback on policies. Some of the information that the FLG needs from the STAG is:

- Whether it is possible to set an attribute limit for sediment and how.
- Whether it is possible to set more specific nitrogen levels in a national instrument.

Agenda item 6: What does success look like? Including a discussion on section 5 of the RMA as a framing tool for the Group's work

21. There was general agreement that success for the FLG within twelve months would be that a policy framework is agreed by the government for freshwater management that will reverse the trends of decline and improve and protect ecosystem and human health within an agreed timeframe.

22. Other aspects raised by members about what success would look like for them included:

Direction:

- Defining Ecosystem Health, have it as a goal and develop a series of steps to get there across the country.
- Within 6-12 months, developing an NPS and NES for freshwater and a discussion around allocation. Can't deal with plan for At Risk Catchments and ecosystem health without discussing allocation.
- Seeing things on land like fencing off water ways, wetlands, extra planting.
- Setting environmental bottom lines for nitrogen, phosphorus, sediment, *E.coli* and put into relevant instrument. This would include requiring farmers to get consents for land use and water and modelling catchments in a way people can understand and view the overall allocation.
- The FLG can assist the government to achieve the boldest path to reverse trends and lead to better water quality in the future. This includes proactive identification of emerging issues.
- Holding the line, protecting what is there and making sure water quality does not get worse. This could require moratoria for further intensification in At Risk Catchments. Allocation is tough and we need to avoid offsetting.

Timeframes/Pace:

- Everyone wants freshwater to be really good but it takes a long time to get there particularly with cumulative effects.
- Trying to make things better in the next 12 months is very hard. It is going to get worse before it gets better. A much longer timeframe is required and will be catchment dependent. The FLG needs to think in a timeframe where it can achieve good stuff that can be measured with a great degree of certainty, eg 2050. The FLG needs to draw a line in the sand about where it wants to get to.

Role of the group:

- Working with the Ministry for the Environment to develop policy that will lead to change. We need to work constructively, road test advice to Ministers and lead to the development of a sound framework.

Communications:

- Need people to be open and communities need to be supported to change. There needs to be education and understanding in communities through strong and robust communication.
- This is an opportunity to change the way farmers think about land use suitability and drive land use within constraints.
- Currently there is uncertainty within communities. We need a framework to bring wisdom to the front and reduce uncertainty. Need to nail down NPS and clearly define the problem statement, eg defining ecosystem health.

Fairness:

- We need to remove the externalisation of costs associated with polluter pays. We shouldn't force others to bear costs and need to communicate with New Zealand as a whole.
- Need to have a discussion about what's fair. This will not be a quick fix. We need a long term view.
- Need fairness and equity and do not want to subsidise or confiscate.

Framework:

- Need analysis on why the law has failed and a better system for making regional councils accountable for reaching part two of the Resource Management Act.
- Enable regional councils to perform mandated functions properly to protect environment to a common standard.
- Pretty close to success in Canterbury particularly in relation to reducing nutrients. There is now a lot of knowledge about how to reduce leaching.

23. It was noted that members should read the Fifth report of the Land and Water Forum (LAWF). LAWF had got to grips with these issues and had now handed over the baton to the FLG. MfE will circulate the report to FLG members.

24. It was noted that the Parliamentary Commissioner for the Environment was reporting on overseer in December.

Agenda item 7: Terms of Reference for the FLG

25. There was a discussion on whether the Terms of Reference should be amended to 'provide independent strategic advice' to be consistent with the Terms of Reference for Kahui Wai Māori. It was clarified that the intent is that the FLG is sounding board for regulatory proposals and FLG would provide strategic advice as well as looking at the detail.

26. It was agreed that there should be an amendment to:

- 16 c) to clarify that the FLG may request analysis but would not be doing it themselves.

- 14 d) that Minutes would be approved by all members of the group.
- Appendix 2 to clarify that members were to avoid advocacy at the FLG but that a diversity of views of the FLG is ok.

27. There was a discussion about whether the Terms of Reference should include milestones. It was decided this should be revisited once the work programme was put together.

28. The revised terms of reference will be circulated to the group for agreement.

Confidentiality

29. There was a discussion about confidentiality. It was recognised that this was important for building trust amongst members. Also draft policies were going to be discussed that should remain confidential. Discussing each other's view would be off limits. Talking points would be circulated at the end of each meeting.

30. Public communications would go through the Chair. Ministers have been clear that they want ongoing dialogue with the FLG.

31. It was agreed that conversations between members outside meetings is important but information should be shared with the wider FLG. The portal will be a good resource for that.

Relationship with STAG

32. It is imperative the FLG has a connection to the STAG as science is the basis for policy. There was a discussion on how FLG could request work from STAG to get answers to technical work. MfE advised that the FLG should reach out for advice through officials. This was because the STAG wasn't meeting frequently and to ensure the STAG was not overloaded. This meant there needed to be agreement about the work programme so the work programme priorities were identified and the STAG delivered work for all.

33. MfE advised that other scientists involved in this work were Ton Snelder (MfE's principle scientist) and internal staff. It was noted that there were no soil scientists involved.

Relationship with Primary Sector Council

34. There was a discussion about the Primary Sector Council's Terms of Reference. Stephanie Howard is a member of the Primary Sector Council and could provide updates on the council's work. Stephanie stated that the council's view is front and centre on sustainability management and the council was talking about their environmental programme tomorrow.

Agenda item 8: Examination and expansion of Essential Freshwater taskforce work streams and where/how the Group will interact with them

35. MfE officials gave a high level overview of the two work streams underway to deliver a regulatory package on stopping the decline of freshwater. The government has three goals: Stopping further degradation and loss, reversing past damage and fairer allocation.
36. The FLG questioned why allocation was at the bottom? How could we remediate At Risk Catchments if we don't talk about allocation?
37. MfE advised that the At Risk Catchment work programme was looking at stopping further decline. This programme recognised work underway and was aiming to identify gaps or where more work was required. The aim was to use the best information to date to make a judgement on where we should best target our efforts. One aspect of this was looking at where communities are already geared up to make a swift contribution to water quality.
38. These was a longer term work programme addressing allocation. Creating a fairer allocation system was not a simple change but required a more fundamental change. This included opening up a conversation about addressing Māori rights and interest. Ministers would lead this and would release a blue print for discussion in June 2019. This would include extensive options to change the allocation system in New Zealand, including discharges of nutrients as well as water abstraction.
39. There would be public consultation on amendments to the regulatory framework (NPS and NES) in April 2019 and decisions early in 2020. This would address amendments to the NPS to give councils clearer direction on limits, attributes and the sorts of things done to achieve those.
40. The FLG noted that it needed to be realistic about the political climate and come up with something that will work. In terms of water quality drivers, a model was needed that will work in this environment. Separating allocation from the other work programmes may end up with unintended consequences. The FLG needed to discuss the integration of this work, but noted the allocation issues are not new, and not progressing the other work programmes could end up doing nothing.
41. The FLG noted that it was tasked with holding the line and a trajectory of improvement. Applying GMPs on their own would achieve some of the improvement required. Capping stocking numbers or a moratorium may be required – a key tool is output based framework. Reaching ecosystem health goals needed a lot more work.
42. It was noted that in Horizons farmers' norms have changed and this resulted in land use changes and decreased stocking rates. The FLG need to be clear about the framework we are expecting.
43. It was agreed that the next meeting of the FLG would be a deep dive on At Risk Catchments. Next, the FLG would discuss issues surrounding the NPS and NES in December. The fourth major work stream would be allocation on a longer term track.

At Risk Catchments

44. Councils have identified At Risk Catchments that could be worked on quickly. The

catchments identified vary in sizes and have different issues and are seeking interventions. Some councils listed all catchments, one council didn't identify any catchments. Some catchments were identified where councils had been acting but wanted more tools.

45. The FLG noted they wanted clarity on why interventions have failed in these catchments to date. Officials noted there was a lack of agility for the councils to respond to issues at speed.
46. Officials are aiming to give initial advice to Ministers at the end of December on At Risk Catchments. This would include a list of catchments, advice on pressures playing out in these catchments and generic regulation that could address those (eg winter grazing, intensification moratorium, stock exclusion and riparian management). Advice here would be whether to target these mitigations nationally, regionally, at a catchment scale, or not to regulate at all. The mitigations could be set out in a National Environmental Standard. Rules in an NES would take effect immediately with associated compliance, enforcement and monitoring. It was noted that there is a link to the billion trees work programme here. Ministers have a desire to target a number of catchments for restoration. This could include additional funding to engage with communities and work together to deliver outcomes and monitor outcomes.
47. The FLG discussed whether their role was to question the reason for intervention or to assist with solutions.
48. It was noted that options here include alternative technology that is being developed to mitigate effects on some practices. The FLG questioned how science funding objectives fed into this work. Officials noted that budget processes were underway, and discussions were being carried out with CRIs about what they are delivering.

NPS-FM / NES

49. Officials advised that the Taskforce is providing briefings to ministers on the scope of changes and high level topics. This included:
 - Proposing amendments to provide greater certainty on how to set limits on resource use including:
 - Nitrogen and sediment limits
 - Riparian planting/management
 - Intensification
 - wetlands.
 - Advice on flows including background on the draft NES on ecological flows developed in 2008, what councils are doing about flows, and what further national direction is needed.
50. It was noted that the analysis on the costs and benefits of these proposals would be included in the Regulatory Impact Statements. These would be completed before April. A Treasury representative was involved in the taskforce.
51. Officials noted this was a big task and there were risks involved. The aim was to develop a credible package that reflects advice from all groups. The FLG should advise on what aspects were must do rather than nice to have. The package would also be tested through the robust consultation process.

Agenda item 9: Develop a suggested work programme and indicative meetings

52. The topics for discussion at the FLG's next three meetings were agreed after discussions with Martin Workman about the scheduling of the Ministry's work programme.

53. The following table sets out the FLG's work programme for the next three meetings:

Meeting 3: Nov 19/20	Meeting 4: Dec 6 and 7	Meeting 5: Late Jan/early Feb
1. At Risk Catchments 2. Initial package (for At Risk Catchments) <ul style="list-style-type: none"> - Stock exclusion - Intensification - Winter grazing - Risk activities - Farm Environment Plans/Good Management Practice 3. NPS-FM introduction	NPS-FM Package: <ul style="list-style-type: none"> - Sediment - Ecosystem Health - Wetlands - Ecological flows - Maintain and Improve - Three waters and urban water 	1. Critique final recommendations on NPS-FM package 2. Allocation 3. Definition of Human Health

54. Date for the next meeting would be 19 November. There is so FLG could meet with Kahui Wai Māori in the evening.

55. There will also be a meeting 6 and 7 December (this would be a 2 day meeting) and January/ February.

56. It was noted that the next meeting of the STAG is on 29th. Topics for discussion at this meeting are:

- State and trend
- Wetland
- Sediment
- Clarifying Maintain and Improve

57. FLG asked for as much information as possible to be able to best advise the Minister. In particular, the FLG asked for draft recommendations to Ministers at their December meeting.

58. It was agreed that MfE will identify information needed from the FLG by posing questions. An issue here was too much information, and that MfE package it in a way that is meaningful. Needs to be comprehensive but helpful.

59. Martin Workman stated that an example of advice that would be sought from FLG is in relation to the NES: should detailed rules be developed instructing farmers how to farm, or should we set up a risk assessment process based on a Farm Environment Plan process.

60. Martin Workman advised that there would be one NPS and NES in this round of government. It was noted that behavioural change can sometimes have better effect than rules. Think about catchments where the proposed mitigations are going to be the most effective.

61. FLG asked for information on the economic impacts of the proposed mitigations. This needed to look holistically at all economic costs including the impact on human health impacts, ecosystem services and environmental aspects. The more economic information the FLG can have, the better. MfE noted that this information will be rough, was often contentious and based on assumptions.
62. The FLG asked that Lain Jager from the Primary Sector Council be invited to the next meeting.

Action points:

Action	Responsibility	Date
Advise whether paper copies of documents are preferred	Members	ASAP
Provide a summary of the state of play in each region, including planning frameworks and non-regulatory approaches	MfE	10 Nov
Guidance on how to declare conflicts, including legal requirements and principles	MfE	10 Nov
Circulate an electronic claim form	MfE	Done
Establish website based portal so all documents will be available, online functions and sharing of information	MfE	TBC
Circulate report of the STAG and the Massey Report	Dr Marc Schallenberg	10 Nov
Circulate LAWF 5 th Report	MfE	10 Nov
Circulate architecture diagram to show work streams	MfE	10 Nov
Provide information on billion trees policy programme	MfE	10 Nov
Information on At Risk Catchments including: <ul style="list-style-type: none">• The letter sent to councils requesting identification of At Risk Catchments• Collation of responses provided by councils	MfE	10 Nov
Invite Lain Jager from the Primary Sector Council be invited to the next meeting	MfE	10 Nov
Invite the Parliamentary Commissioner for the Environment to attend an FLG meeting to discuss their Overseer Report	MfE	6 Dec