

## **Minutes of the Freshwater Leaders Group meeting 6 December 2018**

**Present:** John Penno, Nicola Shadbolt, Tom Lambie, Dr Marc Schallenberg, Allen Lim, Marnie Prickett, Gary Taylor, Dr Hugh Logan, Mandy Bell, Corina Jordan, Bryce Johnson, Graeme Gleeson, Stephanie Howard

**Apologies:** Alison Dewes, Lees Seymour, Traci Houppapa part of meeting, Tom Lambie (part of meeting)

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### **Standing Items**

1. Conflict of interest forms are up on the portal. Nick V will follow up with any outstanding forms to be done.
  - **Previous Minutes — October's** — Passed with minor additions
  - **Previous Minutes -19 November meeting** - The Group discussed the minutes of the meeting on 19 November and agreed that they be accepted subject to changes agreed and made at the meeting.
2. During the discussion about the minutes the Group noted that there needs to be a clear distinction between what the Ministry for Environment - Water Taskforce (Water Taskforce) has said and what the Group has said. Minute takers will ensure this takes place.
3. Members also sought clarification on the following from Science Technical Advisory Group (STAG):
  - Questions about sediment attributes and more accurate N limits in an NES Marc — discussed work around those two projects.
  - How should questions for STAG be asked? The Group confirmed that questions for the STAG should be recorded in the actions from the relevant meeting.
  - The questions should go through the Water Taskforce rather than through Marc. This will also ensure that work is directed and not extremely broad.

### **Matters arising**

#### **Focus of the Group and Reporting to Ministers**

4. Martin Workman from the Water Taskforce provided an update on his recent meeting with Minister Parker. The Minister values the Group's work and looks forward to its comments on policy.
5. Martin noted that Minister Parker would like to come to a meeting to talk with the Group. The Group welcomed this and the Taskforce will work with the Minister's office to identify a time the Minister can attend the meeting. It was noted that the Minister is not available in late January.
6. Members asked how the Group currently communicates with Ministers Parker and O'Connor. The Group Chair and Taskforce confirmed that currently this is done by the chairs.
7. All agreed that when the Group has particular concerns about a proposed policy it will write directly to Ministers outlining concerns and proposed courses of action. At other times the group may want to produce a report on a particular issue where consensus  
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can be reached. Where consensus cannot be reached this should be included in the report.

8. The Group was concerned that keeping the relationship with the Ministers vague, risks the Group's comments on policy getting lost in translation. However, the Group felt that direct communication with Ministers should be on a case by case basis.
9. Some members noted that if the Group is going to have improved communication with Ministers then the work programme will need to be more rigid, with important issues highlighted by the secretariat for discussion.
10. Some members noted that the Group may need to consider flexibility to look at issues at short notice vs. focusing on specific issues if the Water Taskforce is not picking them up. This led to a discussion of how and where the Group should focus its time when considering the Essential Water work programme. Some members would like to spend more time on particular issues and come to a position that reflects their different views. Others referred to the Group's Terms of Reference which established it as an advisory body and noted that they believe the Group should be commenting on the Water Taskforce's work and not identifying new work.
11. The Group agreed that the Water Taskforce should provide draft briefing documents to the Group for feedback and the Group's comments on proposals will be included in briefings to Ministers.
12. The Group asked that all Water Taskforce communications are coordinated so that all groups are well informed of Taskforce work.

**Actions:**

- The Taskforce to work with the Minister's office to identify a time the Minister can attend a meeting.
- The Taskforce to provide draft briefing documents to the Group for feedback and the Group's comments on proposals will be included in briefings to Ministers.
- The Taskforce is to ensure that communications are coordinated with all Water Taskforce Advisory groups.

**Letter to Minister Parker**

13. The Group reviewed a draft letter to the Minister thanking officials for their work, seeking greater clarity about the At Risk Catchment project and seeking increased resourcing for the Taskforce. It was decided that the letter needed to be clearer about what resource(s) the Group thinks is inadequate and where they should be increased.

**Action** the letter to the Minister will be amended taking into account the discussion at the meeting.

**At Risk Catchments**

14. Officials from the Water Taskforce presented an update on the At Risk Catchment project. Annabelle explained that following feedback from the advisory group and a workshop the project approach and deliverables have changed to:
- a) Gathering national level information —this would provide a nationally consistent map of risks that would enable targeting of regulation (such as a National Environmental Standard for freshwater), investment and potentially other interventions as envisaged by the Land and Water Forum. The project will work with Maori, and stakeholders, to develop criteria for assessing the level of risk in each catchment and providing national information by April 2019.
  - b) Identifying exemplar catchments - this would be a small group of five to six catchments where the Ministry for the Environment would work with agency partners (DoC and MPI), iwi/hapu, Regional Councils and communities to improve the health of waterways from the bottom-up, and to provide richer information about gaps that could be filled by either regulatory or non-regulatory interventions. The group of catchments would represent a range of pressures and issues and would be used as learning and demonstration opportunities, while the national level work is underway in parallel.
15. The Group had a detailed discussion about the revised project and key points of the discussion are:
- The Group continues to support the revised ARC project but expressed concern that the process has now changed from preventing further degradation in some catchments to doing case studies. Members noted there are already a lot of case studies that could be used
  - Some members expressed concern that interfering in some catchments such as the Mackenzie country could override work that is already being, or has been, done.
  - The project will be useful when used in catchments that are on or near a tipping point as a National Environmental Standard or other regulation may be too slow to fix the problem.
  - The second part of the project could be useful for guiding what should be in a National Environmental Standard.
  - Greater clarity about how Government resource are or will be allocated for the project is needed.
  - The project group needs to communicate that rules will fix most of the problems but the project will fix catchments at the tipping point.
  - Some members were concerned that most catchments identified are lowland rather than high country catchments.
  - The Group asked for more information about the revised process and how catchments will be chosen.
  - Some members were also concerned that the project could take resources away from National Environmental Standard work that will cover the entire country.
16. During the discussion officials stated that this work will not preclude direct action in catchments. This work will also identify catchments that may be eligible for other sorts

of funding, such as billion trees. Officials also acknowledged that the term 'exemplar catchments' is causing confusion and this will be clarified.

17. The Group finished by identifying three different views of the revised ARC project:
  - The project is on the right track.
  - The project should be focusing on systematic regulatory change to sort all issues.
  - Some catchments require immediate action and any rule changes, such as a National Environmental Standard, would take too long to fix them so that is maybe where work in specific catchments should be focused.
18. Finally the Group noted that both the Taskforce and the Ministers need to be clear what the ambition for the project is.
19. Point raised: that the Taskforce and the Ministry should not be producing briefings like the At Risk Catchment briefing that apologise for a lack of consultation with Maori, everyone needs to engage with Maori as treaty partners early in the policy process — not as stakeholders at a later date. This means engagement early and before options are agreed upon.

**Action:**

The Group would like to discuss the At Risk Catchment project with the Minister to clarify what he wants the outcome to be and what he wants to see happen as a result of the project.

**Allocation**

20. Officials from the Water Taskforce gave a presentation on work the Taskforce has undertaken on developing an allocation system for freshwater. The presentation provided background for the 7 December advisory group workshop with Kahui Wai Maori and some members of STAG. The key points of the presentation were:
  - Instructions from the Minister were to split quality (nutrient) and quantity allocation
  - Developing a fair allocation system is difficult and may need to include a quantum for treaty settlements
21. Following the presentation the Group discussed the various types, and aspects, of allocation systems including:
  - How to ensure the system is fair? Some members expressed the view that when it comes to reallocating access to a resource fairness is a matter of perspective. Some were also concerned that the government will be waiting to find something that is 'fair' before we do anything when things need to be done now.
  - Resource users will need advance warning of changes to existing allocations as investment decisions will be affected by changes in allocation. People can adjust their farming practices and investment decisions if they have time. However, without surety of their allocation some water users will not have the ability to invest in quality restoration.

- Members were concerned about the requirement to split water quality and quantity as the two are linked. The Group asked if these would be combined at some point.
- What are the instruments available to allocate water and how well do they work?
- Members would like to see a map showing the order of magnitude of over allocation regionally so they can understand the scale of the issue. Some members noted that Lake Rotorua is 40% over allocated and remedying this will be a challenge.
- Some noted issues with the current situation where consents allocate N and Overseer is used as a tool to model the effects of the consents.
- The Group noted that all market systems rely on the ability to measure to set a limit. Members noted that while we are relying on modelling estimates derived from Overseer, market allocation systems may not be the right option due to the wide variation in the modelled outputs.

**Action:**

The Water Taskforce to produce a map showing the order of magnitude of over allocation regionally so they can understand the scale of the issue

### **Treaty Principles**

22. Tim Saunders and Riki Ellison talked about Treaty of Waitangi Principles and how they impact on, or could impact on, freshwater management. This was to give some background to concepts that may be used at the Advisory Group workshop on 7 December. There was no formal presentation rather this was to be a free flowing question and answer session. The session ended up focusing on the impact of an allocation system on Maori.
23. The presentation noted that the Government is increasingly dealing with concepts that were not envisaged at the time the Treaty of Waitangi was signed. The Court's starting point is that there are no set policy responses to issues. Rather the Crown should build a healthy relationship and recognise that Maori are a partner under the Treaty. The Crown has the right to govern but also has a duty to let Maori decide what is important to them and how that should be governed.

### **Update on the Essential Freshwater work programme**

24. Members of the Taskforce gave a series of presentations on the National Direction work programme. The presentations covered: Ecosystem health, wetlands, sediment, and defining maintain or improve.

### **National Direction Presentation 1: Ecosystem Health**

25. Officials gave a presentation covering proposed amendments to ecosystem health including: how to incorporate a wider range of definitions instead of attributes to trigger a response from councils, and more transparent reporting of ecosystem health.

26. The Group had a wide ranging discussion about ecosystem health as defined in the current National Policy Statement for Freshwater Management. The discussion included:

- The proposal to broaden ecosystem health to also include biophysical health with the potential for this to encompass human health.
- Human health —the Water Taskforce will be looking at bringing that in, however different to ecosystem health. Could align with 3 waters review. STAG work has already covered a lot of this — making sure that everyone is working to a common purpose.
- STAG will be considering nitrogen at their next meeting and have asked to look at Phosphorus too.
- Some members stressed that nutrient management is essential to setting limits for ecological health
- What other parameters for a healthy ecosystem are being considered and how are these mapped if they apply to different areas of the country?
- Clarify to Minister Parker that swimmability means more than a percentage change of E.coli, it includes periphyton and attributes like clarity that affect the experience/enjoyment of those swimming.
- Some members asked if aquatic life included trout and salmon. It does.
- The Taskforce is looking at things such as Periphyton as a proxy for N and reviewing its success.
- Clear and enforceable definitions of N and sediment limits are needed if work is to proceed.
- Some members asked if it would be possible to revisit the E. coli thresholds in the National Policy Statement to bring them into line with the Ministry of Health/Ministry for the Environment 2003 guidelines. It was suggested that the STAG should look into the technical matters of the numbers and reports back to the Group. Marc explained that the Group does not have the technical expertise to do that. Officials explained that the science has not changed since the 1999 study on which the numbers are based. The Water Taskforce have had advice that those numbers need to be re-assessed and this may take place resources permitting.

**Action:**

The Group would like to understand what the current standards in the NOF means for human health. To help with this Marc will make available the statement that the Freshwater Scientists Society made on the standards.

**National Direction Presentation 2: Wetlands**

27. Officials from the Taskforce gave a presentation on work underway to protect wetlands. This included the need to synchronise the NPS-FM with the National Policy Statement for Indigenous Biodiversity and the biodiversity collaborative group for definitions. Development of NES has possibility of stronger tools regarding wetlands.

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28. The Group expressed broad support for the wetlands work, with support for no further loss of wetlands and restoration of those still existing. Members also supported wetland work being included in other areas of work with clear co-benefits such as climate change and biodiversity. Some members noted that wetlands vary across the country and this was shown in a recent Hawkes Bay court case.
29. Some members noted that there is a need to incentivise restoration as some farmers may consider wetlands to be a loss of productive land. Also some people/regions may feel that any protections for wetlands may limit development.

### **National Direction Presentation 3: Sediment**

30. Officials led a discussion about work underway to develop a sediment attribute.
31. The Group agreed that sediment is a significant issue in NZ and what is needed is agreement on how to manage it, either through limits or some other tool. This seems very similar to a paper presented to LAWF. Some considered that the Taskforce paper seemed to place too much of an emphasis on sediment as a problem contaminant as it implied that sediment is an issue throughout New Zealand when not all waterways or reaches of waterways have sedimentation issues.
32. Some noted that previous work has looked at sediment including as far back as Ministry of Works and Development, Catchment Boards and further. There is already a range of legislation in place covering things such as cultivation, scrub clearance track maintenance and other sediment generating activities that councils can use.
33. Some members noted that fixing sediment may make other contaminant issues worse by allowing light and an increase in periphyton, algae, and water temperature therefore the paper should consider N at the same time.
34. The Group would like to see the research behind this paper. Some members requested that the paper be changed to say in every region there is a reach of a river that is likely to have reached its ecological tipping point in relation to sediment. The Group support further research to identify catchments at risk of sediment and management techniques to address the sediment issue.
35. Some members noted that talking to farmers about good management practice probably will not resolve sediment issues where geology/geography is the main issue. Further work by the Taskforce will need to be clear what remedy is needed and whether good management practice is enough to fix the problem. There is nothing to be gained by telling a farmer good management practices will fix issues on their farm when they cannot because of the underlying geology/geography. Some noted that tailored farm environment plans are a management tool to help address these issues.
36. Some Members said that there needs to be recognition that there are different issues for different parts of New Zealand and a fix in one place may not work in another. Mapping at a country scale vs. a farm scale can look quite different and this should be

**Action:**

- The Taskforce to make the research behind the sediment paper available to the Group.
- The paper be changed to say in every region there is a reach of a river that is likely to have reached its ecological tipping point in relation to sediment.

used to support any policy decisions. Sediment management needs to be understood in a whole system approach. Finally whatever policy is developed needs to include wind and urban erosion if it is to control all sediment.

#### **National Direction Presentation 4: Maintaining and Improving**

37. Officials led a discussion about the work underway to better define what is meant by maintain or improve in the NPS-FM.
38. Group members were concerned that the NPS-FM allows movement within bands and believe this should be fixed in a technical way.
39. Freshwater Management Units also need to be better defined. Members noted that it would be useful to look at a definition of a freshwater catchment. Neither the Group nor the Taskforce want councils to collate large groups of catchments into one large Freshwater Management Unit without good reason.
40. Officials noted that large Freshwater Management Units may still have patches that are not improving.
41. Officials noted that 'overall' is proposed to be deleted from the NPS-FM as the wording allows some waterways to decline.
42. The Group asked what year should be used for the baseline for determining the band to be maintained. Should it be 1991 when the Resource Management Act came into force? Some asked if we have the data for 1991.
43. Officials noted that for groundwater councils set their own limits and maintain it from there. The Group said the government needs to make sure water quality is not getting worse.
44. The Group discussed whether a bands test would be useful for maintaining a band. Some members felt that there are too many bands for some attributes and not enough for others. The Group asked if averages could be used instead of bands.
45. Some members stated the National Policy Statement's 2025 implementation date is too late, and any amendments should move it to 2022.

#### **Lain Jager Primary Sector Council**

46. Lain Jager chair of the Primary Sector Council gave a presentation on the Council and its vision for the primary sector. Key points are:
  - The Primary Sector Council wants New Zealand's primary sector to be world leading and operate in an aspirational manner rather than 'operating within limits'. That's the vision, but what about the strategy? Need to embrace new farming systems. Need to have conversation with the primary sector before its launch.
  - Regulations and standards will need to come from both government and companies in order to drive performance. In the end would like the regulation to come socially from farmers and growers themselves.



- Change is happening in the environmental space but the value chain will be very important.
- The vision needs to include building resilience in the primary sector.

47. The Group then continued the detailed discussion on the National Policy Statement for Freshwater Management and a possible National Environmental Standard.

### **Work programme going forward**

48. The Group briefly discussed the Essential Freshwater work programme and the proposed topics for future meetings.
49. For the January meeting the Group questioned whether option 2, Development of Allocation options, should be included for next meeting or whether it should be moved to another day or whether the January meeting could be a two day meeting.
50. The Group asked that the national direction package paper come out with plenty of time for members to read and comment on it. Some members were concerned with some of the material used to develop it to date.
51. The Group would like to see a report that demonstrates that the Water Taskforce took the day's discussions into account.
52. The Group agreed that the work of Water Taskforce officials is good and expressed their thanks for what is being done. They know that it is difficult and appreciate the options being put in front of them.
53. The Group is concerned that Kahui Wai Maori's work programme may not align with the Group's allocation priorities.
54. The Group asked for time to reflect on the wider picture/direction of travel to put the detailed work programme in perspective.

#### Actions:

- Officials to provide papers at the earliest opportunity. Members to read them and provide comments to the Water Directorate as soon as possible.
- The next meeting to be a two day meeting with both ministers invited to one of the days.
- The Taskforce to explain what the options are beyond a National Policy Statement and/or a National Environmental Standard for achieving the desired improvements in freshwater management.
- Gary Taylor to provide a legal opinion setting out intervention powers for freshwater management.
- The Group would like to see a report that demonstrates that the Water Taskforce has taken today's discussion into account.

### **Next Meeting**

The Next meeting will be at the end of January 2019.

<b>Table of actions from Freshwater Leaders group meeting 6 December 2018</b>
1. The Taskforce to work with the Minister's office to identify a time the Minister can attend a meeting.
2. The Taskforce to provide draft briefing documents to the Group for feedback and the Group's comments on proposals will be included in briefings to Ministers.
3. The Taskforce is to ensure that communications are coordinated with all Water Taskforce Advisory groups.
4. The letter to the Minister will be amended taking into account the discussion at the meeting.
5. The Group would like to discuss the At Risk Catchment project with the Minister to clarify what he wants the outcome to be and what he wants to see happen as a result of the project.
6. The Water Taskforce to produce a map showing the order of magnitude of over allocation regionally so they can understand the scale of the issue
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