

5 April 2011

## **LAND AND WATER FORUM RECOMMENDATIONS - IMPLEMENTATION**

1. This paper sets out suggestions for an approach for the Minister for the Environment and the Minister of Agriculture and Forestry on the implementation and sequencing of the Land and Water Forum (LWF) recommendations. This follows on from the regional engagements that the Forum undertook at Ministers' request, in which the topic of implementation came up frequently. At a recent meeting with the Small Group the Minister for the Environment agreed that any views that the Forum had on implementation, in particular sequencing, would be welcome.
2. The key question that this paper raises is how the Forum's recommendations can happen – time, resource, knowledge etc? An important consideration in this is that the Forum's recommendations are an integrated package. Any sequencing of implementation needs to respect the coherence of that package.

### **Principles**

3. The following are some principles under which implementation might be assessed in order to deal with the fact that some things will be implemented before others:
  - a. Technical coherence (that is, the order makes some sort of rational sense)
  - b. Is consistent with the original set of recommendations
  - c. Gets runs on the board in good time – there is a need for urgency
  - d. Interim steps respect the coherence of the package (each sector gets its share of the gain)
  - e. Implementation steps are clearly identified and there are clear milestones.

### **Complementary Measures for the Government's Package**

4. Quality and quantity standards, limits and targets provide the framework for managing over-allocation and water quality, and provide a context for Good Management Practice (GMP) and regulation. They are a prerequisite for the introduction of new allocation and transfer systems. Limits need to be set well at a regional level.
5. There are linked tasks associated with establishing and implementing appropriate and effective standards, limits and targets for water (both in respect of quality and quantity). Implementation will not be effective or will only be partially effective until all of them have been carried out. These linked tasks are:

- a) Promulgate an NPS<sup>1</sup>
  - b) Establish the necessary framework for its implementation, including through NES's where required and regional councils working collaboratively with industry, other water users, iwi and stakeholders to set limits and select tools.
6. **An NPS is necessary but will not do the job on its own.** Importantly, it will need supporting measures designed to improve the current planning framework. It will also need to be accompanied by various other processes that will guide the actions of a range of players, including regional councils and land and water users. Some of these processes will need to be established in regulation or statute, and some through industry schemes and other repositories of good management practice. There will need to be a clear transition plan that picks up the wide range of areas where progress needs to be made.
7. **The following is a practical approach that should be adopted and associated with any government measures this year:**
- a. Work with regional councils to set limits to implement an NPS. This can start without legislation. This needs to be done through a series of steps which underpin and work towards the development of National Environmental Standards (NESs):
    - Guidance and collaboration on the use of spatial frameworks for quality and quantity limit setting
    - Guidance and methodologies for setting quality and quantity limits, standards and targets
    - The progression of a **revised** NES on flows as the process to develop the NES has already advanced to an extent
    - Councils adopting collaborative processes to arrive at limits, standards and targets
    - Guidance and collaboration on ways to manage over-allocation
    - Ensuring that science is involved in a consistent and integrated way in the development of standards, limits and targets, and monitoring and benchmarking
    - Facilitating the greater involvement of iwi in setting standards, limits and targets
    - Guidance for and working with Regional Councils on regulatory instruments, and the use and encouragement of GMP/Audited Self Management (ASM),

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<sup>1</sup> Note that there are legal and other complexities in developing a final NPS, including the need to adhere to the NPS development structure of the Resource Management Act, and carry out a section 32 analysis.

for water quality. Having targets and standards is one thing – having a clear idea about how these might be achieved and the role of GMP is another. Standards, limits and targets need to be set with a clear idea of the mix of tools to achieve them in mind.

8. Implementation of the Forum’s recommendations requires the development and maintenance of a series of mutually dependent relationships. Central government will need to work with and guide regional councils. Leadership by central government to ensure that councils follow both the letter and spirit of the Forum’s recommendations is important. But this relationship with regional councils will not be one-way. There are good practices by, and knowledge of, many regional councils that will enhance government guidance. Roadtesting some of the changes with regions those thinking is advanced in the relevant area would also help.
9. An important organisation in this environment will be the joint central/local government Chief Executive’s forum. It will be one means by which guidance is provided to regional councils (and feedback, information, and good practice learnt from regional councils), issues of regional consistency addressed, and capacity issues around implementation of the Forum’s recommendations are discussed and addressed.
10. But it is only one means. Relationships with industry organisations (including the primary sector), NGOs and iwi will also be critical. They hold much of the knowledge that will make the Forum’s recommendations including an NPS work on the ground. The ability to draw upon the experience and knowledge of councils, officials, communities, water and land users, iwi and scientists (defined broadly) to recognise, record, standardise and communicate best practice will be important. Ensuring that central and local government are able to tap into that knowledge is critical. The LWF provides a mechanism by which this engagement can occur.
11. It is also important that consideration through all of this and subsequent work is given to the way that the Treaty relationship can be reflected.

#### **Other Urgent Work**

12. Apart from the implementation of an NPS and development of NESs, there are a range of other areas where action needs to start straight away on the Forum’s recommendations, including:
  - a. Work on the early development of the National Land and Water Strategy needs to begin as soon as possible, whether by the early establishment of the Land and Water Commission or perhaps starting through the Land and Water Forum and then being continued by the Commission.
  - b. There are some items of legislative change that could occur next year even if the further work required on allocation has not been completed. Potentially this could include some of the governance changes recommended including in relation to iwi, the mandatory development of integrated water plans, the ability to use moratoria

in certain limited circumstances, amendments to the RMA to facilitate or mandate collaborative approaches, and withholding water as a compliance tool. These steps would form part of an integrated reform package.

- c. Measures on rural infrastructure as part of an integrated reform package, including the use of inclusive and carefully managed collaborative processes and targeted public funding.
  - d. There is a need to start the work on allocation, including direction/guidance on threshold setting for each catchment. That is because the allocation work will take time. It involves considerable work on technical details, transition, and the management of change, including the engagement of iwi, stakeholders and the public. Any legislation required for allocation changes could be in the 2012-4 period.
  - e. Further work needs to start on the possible use of market-based instruments for assisting in the allocation of assimilative capacity (for example, nutrient trading).
  - f. The pre-requisites for any new allocation system need to be put in place – these include how the threshold for moving from 1<sup>st</sup> in 1<sup>st</sup> served should be set, and managing over-allocation.
  - g. There is a need to progress the water services management recommendations, not least because there are linkages between achieving limits and urban water infrastructure, and between allocation priority and urban water issues.
13. We hope that Ministers will release the timeframe and sequencing of the overall reform as part of any announcement about the government's response to the LWF package, including how the various elements of the package will be addressed.

#### **Industry, Community and Council Implementation – actions in parallel or advance**

14. Industry also has a range of tasks associated with implementing the Forum's recommendations. Some of these are set out on pages 29 and 30 of the report. Industry can move ahead with its own changes and programmes and need not wait for central and local government action to make more progress.
15. There will also be councils that are making changes in water management. Positive steps forward by councils should not have to await central government instruments but should take into account overall government direction.
16. In a range of areas, communities, industry, stakeholders and iwi are taking steps to improve water management. These steps should continue to be progressed. Limits and targets can take a long time to develop and achieve – progress that can be made now should be made without prejudice to further measures that might need to be taken.

## Capacity

17. A reform of this nature does not happen by itself – it is a considerable undertaking involving the integration of technical, scientific, legal, planning, and economic skills, along with the engagement of regional councils and territorial local authorities, iwi, industry, NGOs, and the public. The actions of individual landowners will need to be influenced by a wide range of actions, including outreach and education programmes on GMP, well constructed regulatory and ASM programmes that have appropriate compliance regimes, and economic incentives whether provided through regulation or industry. Above all, they will need to feel involved.

18. Implementation will therefore require:

- a. Sufficient capacity at central government level
- b. Consistent and sufficient capacity within regional councils and territorial local authorities
- c. Integrated scientific and knowledge input
- d. Sufficient outreach capacity within industry to provide landowners with the tools that they need to collectively meet targets
- e. Sufficient capacity within industry, iwi and NGOs to engage with a range of stakeholders during the reform process
- f. A clear strategy for communicating with and involving councils, industry and other stakeholders, landowners, iwi, and the public
- g. Continued leadership by stakeholders and iwi.