

**Office of the Minister for the Environment  
Office of the Minister of Agriculture**

**Cabinet**

[New Start for Fresh Water]

**Proposal**

1. This paper proposes a new direction for water management in New Zealand, and sets out some of the choices we face and the implications of those choices.

**Executive summary**

2. Establishing a fairer and more efficient water management system is a priority for the Government. Improved freshwater management is one of the elements of Phase Two of the government's resource management reforms.
3. Sound water management is not solely an environmental issue, but is also essential to the pursuit of sustainable economic development. Water is central to New Zealand's biologically based export economy and our competitive advantage; it is also of vital concern to Māori. Water needs to be sustainably managed to provide for New Zealand's economic development and growth and other values important to New Zealanders (including biodiversity).
4. In short, New Zealand is approaching some water resource limits, which can be seen in areas with deteriorating water quality, water demand outstripping supply, and constrained economic opportunities. We are in a period of opportunity to develop a better system and outcomes; we risk squandering New Zealand's natural advantages if the situation does not change.
5. We propose three processes running in parallel to begin the implementation of a new direction for water management:
  - a. Developing a shared understanding through a stakeholder-led collaborative process of potential options to achieve outcomes and goals for New Zealand's water management; this begins to build the social consensus for change that is needed before proceeding to solutions.
  - b. Continuing engagement between Ministers and iwi leaders on the position and interests of Māori with regard to fresh water, including a joint work programme on matters of mutual interest.
  - c. At the same time, scoping policy options in the areas we expect to be the main elements of the new direction. These areas are:
    - i. stronger central government leadership and better national-level direction, and investigation of whether water management decisions are currently being made at the right level

- ii. identifying the contribution water infrastructure (including storage) can make to improved water use, and addressing the barriers to this
  - iii. the science, technical, information and capability gaps which are holding back the necessary management changes
  - iv. water resource limits to shape actions on quantity and quality
  - v. an allocation regime that provides allocations to ecological and public values, and then maximises the return from the remaining water available for consumptive use
  - vi. supplementary measures to address the impacts of land use intensification on water quality, and manage urban and rural demand.
6. We recognise that trade-offs will need to be made, and not everyone's needs and expectations will be met in all places at all times. While there will be environmental or other constraints on development and land use (and some changes in current use patterns may be necessary), some water bodies may be used more intensively than at present. There are also some choices to be made about whether the Government wishes to consider fundamental and radical reforms to water management, and how quickly we wish to push to solutions.
7. We will report back to the Economic Growth and Infrastructure Committee (EGI) in [withheld] with a more detailed work programme to give effect to a new direction over the course of this Parliamentary term. It is important to make a fresh start on fresh water, but we do not intend to rush this significant work area.

## **Background**

8. The Sustainable Water Programme of Action (SWPOA), led jointly by the Minister for the Environment and the Minister of Agriculture, was established in 2003 to deal with water quality, allocation and use, and water bodies of national importance. Further details are given in Appendix 1. Many of the milestones were not met in the programme and the programme was widely perceived as ineffective in tackling the big issues.
9. Several main deliverables of the SWPOA are currently being progressed:
- a. Proposed National Policy Statement (NPS) for Freshwater Management: out for public consultation (further submissions on the draft NPS have been sought by the independent Board of Inquiry; hearings are scheduled for mid-2009 and its recommendations are expected in January 2010)
  - b. National Environmental Standard (NES) for Measurement of Water Takes
  - c. National Environmental Standard on Ecological Flows and Water Levels
  - d. Primary Sector Water Partnership
10. We intend that the NPS will continue, in order to maintain the integrity of a consultation process that is well advanced and supported by Māori. This recognises that the NPS is an RMA tool which will support the implementation of government policy, rather than the means to set the whole direction for water management. The NESs are important technical instruments and will also continue.

11. In 2007 the previous Government and iwi leaders<sup>1</sup> agreed to a relationship between Ministers and iwi leaders on freshwater management, and a joint work programme between officials and iwi advisers was set up in 2008. The work programme includes a workstream, yet to be fully scoped, on management options including allocation mechanisms (see Appendix 1). On 26 May, EGI considered a draft framework for a protocol of engagement with iwi leaders on fresh water [EGI Min (09) 10/4 refers].
12. Much other work across government in areas such as land use and demand management also contributes to improving water management outcomes. Local government, industry groups and communities contribute through on-the-ground rehabilitation activities and commitments to improved practice. This paper does not deal with specific policies to address drinking water quality or flood risk management, which are the subject of separate processes.
13. Improved freshwater management is an element of Phase Two of resource management reform. As part of that overall package, Cabinet Strategy Committee invited us to report back with a proposed work programme on freshwater management issues, including collaborative processes [STR Min (09) 5/3 refers].

### **The water management issues and challenges facing New Zealand**

14. New Zealand's economy, ecosystems, community health, and social and cultural values depend on adequate water quality in sufficient quantity – and often a single water body contributes to all of those values. The abundance and quality of our water and 'clean green' perceptions of New Zealand give us a competitive advantage in primary production, energy generation and tourism. Sound water management is not solely an environmental issue, it is essential to enable us to pursue sustainable economic and social development.
15. The issue underlying all others is that we are hitting resource limits. In some parts of New Zealand we are already exceeding the amount of water that can be taken from and/or the amount of pollution that can be absorbed by water bodies without damaging the environment, economic potential or other values. When accommodating all interests would result in a breach of these limits, difficult decisions and trade-offs between values need to be made.
16. The limits to water resources are reflected in the following issues:
  - a. Water quality is declining in many areas, particularly in lowland rivers, streams, lakes and groundwaters, which threatens biodiversity, community and cultural values, the coastal environment, and freshwater and inshore fisheries.
  - b. Poor or declining water quality has already created direct costs, such as the nearly \$450 million allocated over the next 10 to 20 years to the clean-up of Lake Taupo, Rotorua Lakes and the Waikato River, and can constrain economic opportunities (e.g. tourism, fishing or aquaculture).
  - c. Water demand continues to grow rapidly; environmental risks and economic constraints are created as some catchments and aquifers near

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<sup>1</sup> Tumu te Heuheu (chairman, Ngāti Tuwharetoa), Tukoroirangi Morgan (Tainui), Toby Curtis (Te Arawa), Archie Te Atawhai Taiaroa (Whanganui), Mark Solomon (Ngāi Tahu)

or reach full allocation in the absence of effective re-allocation mechanisms and/or water storage infrastructure.

17. One of the most significant challenges to be faced is the strong link between some forms of land use intensification, water use and water quality decline. The effects of land use on water quality can take decades to become apparent. The actions needed to improve water quality and maintain long-term economic potential may have short- to medium-term costs, through restrictions on land use. The rate and nature of the transition will have a significant impact on primary producers and communities.
18. Some other contributing issues also need to be addressed:
  - a. Stakeholders generally understand the issues, but many New Zealanders are not well informed on the potential solutions and the complexities of water management. We are unlikely to be able to successfully implement the necessary changes without first building a constituency for change
  - b. The rights and interests of Māori in New Zealand's freshwater resources remain undefined and unresolved, which is both a challenge and an opportunity in developing new water management and allocation models
  - c. Institutional capacity and capability is limited in central government, local government, industry, the farming sector and the community, and the processes, science capacity, information, and technical expertise needed to set sound resource limits are lacking.
19. Urban water issues will be addressed, but the greatest benefit will be obtained from focusing on rural water and land management. This reflects the opportunity to maximise the value of primary production, the fact that most consented water takes are allocated to irrigation, and the effects of farming on water quality.

### **What we want to achieve from freshwater management**

20. The aim is to get the 'best value' for society from New Zealand's water resources, now and for the future. The concept of 'best value' needs to be determined by looking across economic, environmental, social and cultural dimensions, and by weighing up individual, local and national interests.
21. New Zealand's water resources are finite, and so it is not possible to fully meet all demands and expectations in all areas at all times. Outcomes will only be achieved by considering and making trade-offs between values, within a decision-making framework that sets limits and bottom lines.
22. Without pre-empting the collaborative outcome-setting process (see paragraphs 54-60), we expect that the long-term end result is likely to be:
  - a. limits put in place to identify and protect valuable ecosystem services and basic ecological, social and cultural values in water bodies
  - b. most water bodies providing for most 'public values' and some level of use, which may impose constraints on economic development and land use
  - c. relatively few water bodies being highly protected in a pristine or natural state (although many will have some level of protection through being located on the conservation estate)

- d. a very few water bodies being degraded (in flow or quality) if it is agreed that the economic benefits are sufficient to outweigh the other costs (for example, reducing stream flows for hydroelectric generation).
23. This end-state may mean that some water bodies become more heavily used than at present, while others are rehabilitated to greater environmental health. The result reflects that it is not, at present, economically feasible to rehabilitate every water body in the country to a high environmental standard. The setting of limits to determine the proportion of water bodies to go into each of those categories is essentially a difficult allocation decision, which requires consideration of all values and some trade-offs.

### **Indicative direction for water management**

24. It is the proper role of government to set the overall policy direction, and there is considerable work that can be done immediately on the options to give effect to a preferred direction while still allowing the final choice of solutions to be shaped by a collaborative process to set outcomes. Much of this policy work will continue or build on existing knowledge and workstreams.
25. Some assumptions underlie the work to develop the range of options:
- a. Water management will be based around integrated catchment and groundwater management.
  - b. Meaningful Treaty-based engagement with Māori will continue (including discussion on the roles, rights and interests of Māori) and is central to a robust policy process and durable outcomes. For example, progress on allocation will not be possible without resolving issues around Māori interests, and all options need to be on the table for discussion.
  - c. A broad toolkit will be used. A wide range of interventions and tools is needed to improve water management – which will include traditional regulatory tools alongside market-based instruments, partnership and collaborative approaches, capability and capacity building, and communication tools.
  - d. Water management under the RMA will be part of the final policy direction, but some interventions may fall outside the RMA.
26. We see the main elements in the Government's policy direction as follows:
- a. Ensuring that water contributes to New Zealand's economic growth and environmental integrity
  - b. Providing stronger leadership, national direction and guidance from central government, using interventions that add value, and investigation of whether management decisions are currently being made at the right level
  - c. Identifying the contribution water infrastructure (including storage) can make to improved water use, and addressing the barriers to achieving this
  - d. Filling the science, technical, information and capability gaps
  - e. Management measures to tackle allocation and quantity issues:
    - i. setting of limits to manage both water quality and quantity, and to get the most value from finite water resources

- ii. developing allocation models which firstly set ecological bottom lines and make allocations to public purposes (including Treaty considerations), and then maximise the economic return from the remaining water available for consumptive use
- iii. developing supplementary measures to address the impacts of land use intensification on water quality
- iv. better managing the demand for water in both urban and rural areas (pricing or other economic instruments may be part of this element)

27. Some of these elements are discussed below in more detail.

*Central leadership and investigating whether decisions are made at the right level*

- 28. New Zealand's highly devolved resource management frameworks mean that regional councils make almost all the most technically and politically difficult decisions on water management, including the setting of community outcomes, often with limited guidance or support from central government. Further work will be done on whether decisions are currently being made at the right level (while recognising that catchment-based management is important) and whether further support is required.
- 29. Stronger central government leadership may well include targeted interventions in particular regions, where the benefits of doing so outweigh the costs.
- 30. Governance and decision-making options will depend on, and be linked to, any broader developments in local and central government responsibilities, including the findings of the Royal Commission on Auckland governance, creation of an Environmental Protection Authority, and further development of co-management arrangements for natural resources in Treaty of Waitangi settlement redress.

*Infrastructure*

- 31. Some parts of New Zealand have too much water at times and too little at others. This variability can be managed more effectively and efficiently, with consequential benefits for productivity, by much greater use of water storage and distribution infrastructure. Other benefits can include adaptation to climate change and potentially better environmental outcomes (so long as any consequential land use intensification is well managed). Current regional water planning, RMA processes and the long investment horizon for capital intensive projects may, however, hinder the optimum use of such infrastructure.
- 32. In addition, much urban water infrastructure is ageing, increasing risks for water quality and efficiency.
- 33. More work is needed, however, on determining the appropriate role of central government with regard to water infrastructure decision-making and investment.

*Filling the science, technical, information and capability gaps*

- 34. Management of water by both users and regulators needs good information. There is currently a gap in the information and science necessary to underpin good planning. A management system based on setting and enforcing limits cannot function without adequate information and suitable technologies.

Mātauranga Māori can also make an important contribution to the achievement of better outcomes for freshwater management.

35. Another issue which needs to be addressed is the lack of good alignment between national outcomes and water managers' needs on the one hand, and current research funding, prioritisation and deliverables on the other.
36. The shortfall and inconsistencies in technical capacity and/or capability, and wider capability issues, apply across central government, local government, businesses, the primary sector, and our research science and technology sector. For example, a shortage of trained farm advisors makes it difficult to roll out better land management techniques (such as nutrient management) to farmers who are seeking to improve their performance. These shortfalls are not, however, insurmountable – they hinder rather than halt progress in most areas.

#### *Allocation models*

37. Allocation models need to both encourage economic efficiency and growth, and provide for public purposes or community values including Treaty and settlement interests, drinking water, biodiversity protection, the ability to swim and fish, and intrinsic values. These values need to be identified and addressed, and weighed up – if appropriate – against other values (such as the economic potential of the water) before water or assimilative capacity is allocated. Once the amount of available water (or acceptable contaminant load) is determined, it is appropriate to maximise the economic value of that water through measures which encourage the water to go to its highest value uses.
38. Allocation systems are therefore likely to involve a 'two-stage' model: the first stage provides for public values through a largely planning-based process, and the second stage then uses other tools (which may include economic instruments) to provide for the allocation and transferability of the available water to its most valued uses. This second stage will need to operate within a well-designed regulatory framework.
39. The theory of allocation is reasonably straightforward, but there are some matters to be worked through in designing and implementing a system to better the status quo. Many of these matters are values-based rather than technical:
  - a. Treaty issues around interests in water and roles in decision-making. Iwi leaders have an expectation that they will meet regularly with senior Ministers to discuss allocation initiatives, and officials' work on allocation will need to link into parallel work under the joint Māori work programme. In addition, the Kiingitanga Accord (part of the Waikato-Tainui river settlement) requires the Crown to engage in good faith with Waikato-Tainui before establishing tradeable rights or permits, property rights, or anything that amounts in effect to privatisation of the waters of the Waikato River
  - b. Transition into a new model (and, potentially, claw-back of over-allocated resources), especially as we need to move away from a first-in-first-served system that focuses primarily on environmental effects rather than most valued uses. This is likely to be contentious if there are 'winners and losers'

- c. The need for public understanding of and buy-in to the various options, as there is some public apprehension about price-based measures or anything that resembles privatisation of water
- d. Numerous small catchments and aquifers make some potential models (especially market-based options) difficult and/or inefficient
- e. Identifying the best means to designate and protect waters of national importance for their economic or environmental values.

#### *Water quality and land use*

- 40. Poor water quality appears to be a bigger long-term threat to New Zealand's environment and economy than inefficient allocation, and is also a major concern for communities.
- 41. Measures targeted at water quality improvements will include improving land use and developing robust allocation mechanisms to decide who has a 'right to pollute', and where. Even maintaining the status quo in water quality in some catchments may require changes in land use, not just the application of current best practice to existing uses. This implies the need for difficult adjustments and/or potentially significant short-term costs – both for individuals and regional (or even national) economies – to gain long-term net benefits.

#### **Pursuing a new direction in freshwater management**

##### *Options for pursuing a new direction*

- 42. We see two related parameters to be considered in deciding how this new direction can be pursued:
  - a. degree of potential change: whether the policy direction is to be implemented primarily by fine-tuning the current system, or whether radical and/or fundamental options should be considered, and
  - b. pace of change: whether we should move as fast as possible to change, or take a longer time to work through the options thoroughly with Māori, local government, stakeholders and the public.
- 43. With regard to the degree of potential change, targeted 'fine-tuning' interventions are generally quick to identify and implement, but they are unlikely to address the underlying problems – especially in the more complex policy areas. A wide-ranging investigation of policy options should allow for better matching to long-term outcomes and provide for the necessary conversations with Māori. The risks are that it can take time, be frustrating for stakeholders, and may cause investment uncertainty.
- 44. Major changes made at speed and without local government, stakeholder or public buy-in are unlikely to be durable, and risk being unworkable or unnecessarily complex or costly. Maintaining good faith with the Iwi Leaders Group also requires us not to rush major decisions.
- 45. We recommend, therefore, that we should not rush the implementation of actions in significant or complex areas. Officials should investigate all potential options, including those that would fundamentally change the status quo. This does not commit us, at this stage, to any radical solutions – but it leaves open all the options for improving water management.

### *Role of Māori in developing the policy direction*

46. Early consultation with Māori has indicated they have a wide range of interests in fresh water. These may include not only traditional and cultural connections, but also economic development interests (as water users and landowners), fisheries interests recognised through the Fisheries Settlement, and an expectation that Māori will have a role in water management. Many Māori also claim a property or ownership right in water that they wish to have recognised. Each iwi will have its own view on how it wants its interests to be accommodated.
47. During some stages of the SWPOA, progress on issues such as allocation was brought to a halt due to an unwillingness on the government side to discuss a full range of potential interests (because of perceived Treaty and litigation risks). Relationships have, however, been rebuilt over the last two years and there is a real opportunity now to make progress through good-faith engagement.
48. The forum for involving Māori in the initial development of policy options is through the Iwi Leaders Group and joint Māori work programme (see Appendices 1 and 2). Tumu te Heuheu, as chair of the group, wrote to the Prime Minister and other Ministers in February to reiterate the group's desire that:
  - a. the Iwi Leaders Group and a group of Ministers led by the Prime Minister meet regularly to discuss freshwater management and allocation initiatives
  - b. the joint Māori work programme be continued
  - c. the Crown agree that there shall be no disposition or creation of a property right in water without prior engagement and agreement with iwi.
49. The Prime Minister and other senior Ministers met with iwi leaders on 24 March to discuss the above, and iwi leaders tabled a statement (attached as Appendix 2) which again sought a Crown commitment to the points in paragraph 48.
50. The Government's engagement with iwi leaders on water over the last few months has been summarised in the paper 'Draft Framework for Protocol of Engagement with Fresh Water Iwi Leaders', which was considered by EGI on 27 May 2009 [EGI (09) 74 and EGI Min (09) 10/4 refer].
51. In a letter dated 1 May 2009, the Prime Minister committed to meaningful engagement with iwi leaders on matters of common interest and further discussion of the joint work programme. These discussions will need to take place while policy options are being developed, not deferred until after the collaborative process is complete, to maintain good faith engagement and momentum on the broader work programme. Given that some challenging issues are likely to be raised, engagement with Māori will benefit from a clear shared understanding of the desired outcomes from engagement.
52. Elements of the joint work programme between officials and Māori advisers will also need to link in closely to related government work on policy options. The scope of the work programme is on the agenda for the next discussion between Ministers and iwi leaders in [withheld], and a forward work programme will be reported back in greater detail in the EGI paper scheduled for [withheld].
53. On 27 May 2009, EGI agreed to a draft framework to inform development of a communication and information exchange protocol between Ministers and iwi

leaders, with a final protocol due for consideration by EGI in [withheld]. The aim of the protocol is to provide for informed discussions, and for Cabinet to make decisions that are informed by iwi views. As part of the information-sharing process, the iwi leaders and their advisers reviewed a draft of this paper and provided comment (attached as Appendix 3). Some changes were made to this paper as a result of that feedback.

*Developing a shared understanding of outcomes and goals*

54. A broad conversation is needed to establish some national consensus around options to achieve some outcomes and goals for New Zealand. This will help Ministers to choose policies which address long-term needs as well as immediate problems. This conversation can take place through a collaborative stakeholder-led process, or through a more traditional model based on engagement between government and stakeholders (such as public consultation, use of a Technical Advisory Group or a 'Water Summit').
55. Our preferred option is to use a collaborative process to develop a shared understanding of outcomes, goals and long-term strategies for freshwater management, through the Land and Water Forum<sup>2</sup>. The membership of the Land and Water Forum covers stakeholders from urban, industrial and rural interests in water as well as those interested in land management. A list of participants to date is attached as Appendix 4.
56. Central and local government, as parties with a role in water management, will need to be active observers in, and provide information to, the collaborative process (with other forms of support from central government also possibly needed). Mandated iwi representatives should also be able to choose to participate. The findings of the collaborative process need to be recommendatory, rather than binding, to preserve government's role as policy-maker, maintain the position of the Crown-Māori relationship, and preserve the integrity of the process for the National Policy Statement on Freshwater Management.
57. The role of the Land and Water Forum would also, if possible, include consulting the public on outcomes, goals and potential options, via a discussion document and consultation process. We cannot afford an elaborate and lengthy process, especially as there have been previous rounds of public consultation on freshwater management. The Land and Water Forum outcomes and the results of their consultation will need to be reported back to Cabinet by [30 July 2010] in order for the overall package to be progressed by the end of 2011 (an EGI paper scheduled for [withheld] will cover terms of reference and interim funding for the collaborative process). Once this consultation has taken place, we then intend that Ministers will discuss the Land and Water Forum's findings with the Iwi Leaders Group before taking any policy decisions.

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<sup>2</sup> The Land and Water Forum is an extension of two groups: (a) The Sustainable Land Use Forum (commonly known as SLUF): The SLUF was established, following agreement at Environmental Defence Society's 2008 conference, to work to ensure primary production is sustainable. It comprises a range of industry groups, environmental and recreational NGOs, iwi groups and other relevant organizations. (b) The Turnbull Group: The Turnbull Group is convened by Water New Zealand and has representatives from a range of business, academic and non-government organisations with broad interests in water policy.

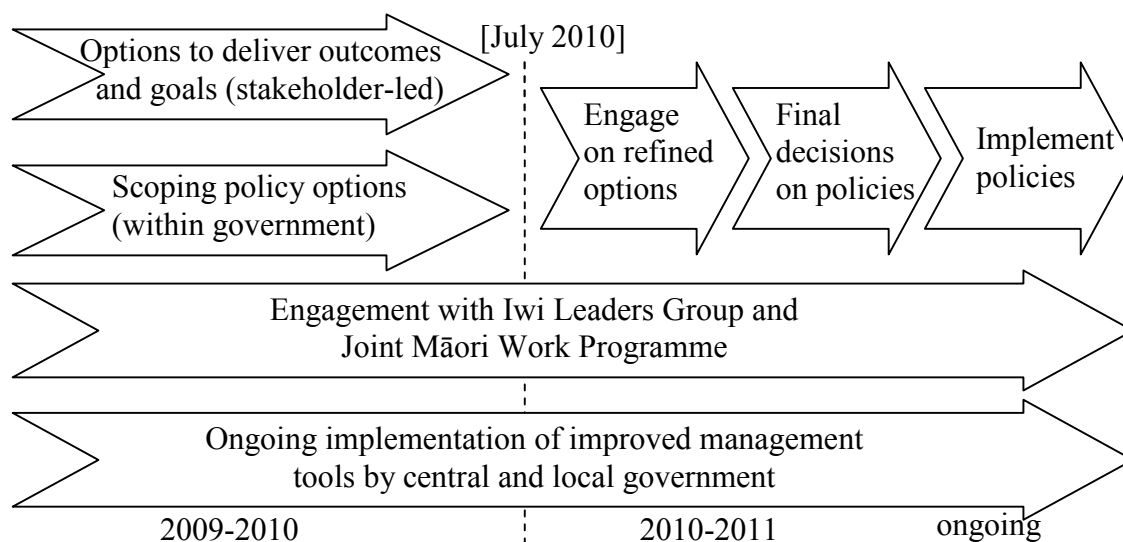
58. Notwithstanding the use of a collaborative process, some indicative outcomes are needed to inform the scoping of policy options. These indicative outcomes have been drafted by officials based on experience from the SWPOA to date, and are attached as Appendix 5. They have not been discussed with others outside government departments (including iwi leaders or advisers) and should be seen as a starting point for further conversations.

### *Engaging the public on policy solutions*

59. Further work will need to be done on building public understanding and buy-in. The understanding of the need for change is growing, but there are some areas where this may not yet exist (e.g. urban water demand management) or there may be community resistance to some of the tools (e.g. water metering) likely to be needed to get better economic and environmental outcomes.
60. The Land and Water Forum consultation process will go some way towards this, but officials will also provide further advice on socialising both the nature of the problem and the tools needed to address it in the upcoming EGI paper.

### *Sequencing*

61. As noted earlier, work on developing policy options and implementation of improved management tools, will need to move alongside the collaborative process. We will then be in a position to move quickly to decisions:



62. Work on policy options in three main areas will be progressed in parallel: water quality, allocation, and infrastructure. Nevertheless, not everything can be completed at once within the resources and capability departments have available. The initial focus will be on the work that is needed to underpin the broader work programmes on allocation and quality. This will include:
- a. Continued engagement with Māori through iwi leaders and the joint work programme, particularly on the issue of perspectives and interests
  - b. Technical work needed to support the setting of resource limits and a more robust allocation system (e.g. identifying waters of national importance, processes for setting environmental flows)

63. The [withheld] report back to EGI will give more detail on how we can achieve early visible progress and improvements. It is our intention that progress is made on implementing quality, allocation and infrastructure measures by the end of 2011.

### **Linkages with other policy processes**

64. Water management is part of a broader package of resource management reforms. The direction set out in this paper for water are consistent with the objectives for Phase Two, such as achieving least cost delivery of good environmental outcomes, providing greater central government direction and improving the economic efficiency of implementation.
65. Another major linkage is with the current work on co-management arrangements for natural resources that are being sought through a number of Treaty of Waitangi settlements. At present the co-management arrangements within the Waikato-Tainui Deed of Settlement and associated agreements with other Waikato River iwi are under review, and are likely to form a strong precedent for future Treaty settlements. As this will have implications for the management of resources such as major water bodies, careful management of relationships (particularly with iwi leaders) and expectations are needed.
66. Officials will also give further consideration as to how the water-related initiatives proposed at the Jobs Summit (such as bringing forward infrastructure development, incentivising water metering, and accelerating employment and training opportunities in land and water management) might fit with and be advanced through this work programme, if appropriate.
67. The EGI paper in [withheld] will set out terms of reference as required under the regulatory review programme [CAB Min (09) 6/5A refers].

### **Next steps**

68. Given the importance and wide-ranging nature of water issues, we will consult with colleagues – particularly the Ministers of Finance, Energy and Resources, Local Government, and Māori Affairs – as the work programme develops.
69. We plan to bring a short paper to EGI in [withheld] covering the terms of reference and interim funding arrangements for the Land and Water Forum, so that its process can commence as soon as possible.
70. Fuller details on the proposed process to develop and implement preferred policy options will be provided in a follow-up paper to the Cabinet Economic Growth and Infrastructure Committee in [withheld]. This paper will set out a sequenced and prioritised work programme and deliverables, and provide further advice on communicating the scope of the work and its new direction.

### **Consultation**

71. The following departments have been consulted and concurred with an earlier draft of the paper: Department of Conservation, Ministry of Economic Development, Ministry of Fisheries, Department of Internal Affairs, Ministry of Justice, Land Information New Zealand, Te Puni Kōkiri, Ministry of Research, Science and Technology, and Treasury. The Department of the Prime Minister

and Cabinet, State Services Commission and Crown Law Office were informed.

72. The Green Party has been consulted on this Cabinet paper and broadly supports the need for improved water governance. Changes to the paper reinforcing the environmental dimensions of issues have been made during the consultation. Although not all the Green Party proposals have been adopted in the paper, the Green Party support the collaborative process and see this as an area that could be added to the Memorandum of Understanding with the National Party. Ongoing consultation is envisaged with the Green Party as the Land and Water Forum advances ideas for reform.
73. The agreement with the Green Party at this stage is on the need for reform and the collaborative process through the Land and Water Forum. We have also agreed to consult further as the work advances.

### **Financial implications**

74. Financial implications will be identified in subsequent papers. The collaborative process is likely to require some funding from government.

### **Human rights**

75. An analysis of the consistency of the proposals with the Human Rights Act 1993 will be included in subsequent papers.

### **Legislative implications**

76. The legislative implications of this work will be identified in subsequent papers.

### **Regulatory impact analysis**

77. The overall direction proposed in this paper is likely to result in regulatory proposals. A Regulatory Impact Statement will be prepared when more detailed policy proposals are presented for approval.

### **Publicity**

78. [paragraph withheld]

### **Recommendations**

79. The Minister for the Environment and Minister of Agriculture recommend that the Committee:
  1. **note** that, as part of Phase Two of the Government's resource management reforms, Cabinet invited the Minister for the Environment and Minister of Agriculture to report back with a proposed work programme on freshwater management issues, including collaborative processes [STR Min (09) 5/3 refers]
  2. **note** that on 27 April 2009 the Cabinet Strategy Committee:

- 2.1. noted that Ministers with a portfolio interest in water issues would have further discussion about the proposed new direction for water management, which took place on 4 May 2009
- 2.2. invited the Minister for the Environment and Minister of Agriculture to submit a paper to Cabinet revised in light of the discussions referred to in paragraph 2.1 [STR Min (09) 6/1 refers]

*Issues to be faced*

3. **note** that:
  - 3.1. New Zealand's economy, environment, and social and cultural values depend on good water quality and availability
  - 3.2. resource limits are being reached in some parts of New Zealand, which manifest in poor water quality, water shortages, and constrained economic opportunities
  - 3.3. there are strong links between land use intensification, water use and water quality decline
  - 3.4. the rights and interests of Māori in New Zealand's freshwater resources remain undefined and unresolved
  - 3.5. many New Zealanders do not understand the long-term economic and environmental risks posed by the status quo in water management
  - 3.6. there are gaps in the processes, information, scientific and technical capability needed to manage water well

*Giving effect to a new policy direction*

4. **agree** to the following elements in a new direction for water management:
  - 4.1. ensuring that water contributes to New Zealand's economic growth and environmental integrity
  - 4.2. providing stronger leadership and national direction, and investigating whether water management decisions are made at the right level
  - 4.3. identifying the contribution water infrastructure (including storage) can make to improved water use, and addressing the barriers to enhancing this contribution
  - 4.4. filling science, technical, information and capability gaps
  - 4.5. developing management measures to:
    - 4.5.1. set limits to manage quality and quantity issues, and to get the most value from finite water resources
    - 4.5.2. develop allocation models which firstly set ecological bottom lines and make allocations to public purposes, and then maximise the economic return from the remaining water available for consumptive use
    - 4.5.3. address the impacts of land use intensification on quality
    - 4.5.4. improve the management of water demand in both urban and rural contexts

5. **note** that much work that will contribute to the development of policy options in the above areas has already begun
6. **agree** that potentially fundamental reforms to current water management systems should be considered in developing options
7. **agree** that the scoping of policy options proceed on the assumption that:
  - 7.1. water management will be based on the concept of integrated catchment and groundwater management
  - 7.2. the full range of potential roles and interests of Māori is open to consideration
  - 7.3. resource limits will be set, within which different values in water must be balanced
  - 7.4. the setting of resource limits will result in:
    - 7.4.1. limits put in place to recognise and protect basic ecological, social and cultural values in all water bodies
    - 7.4.2. most water bodies providing for most public values and some level of use, which may impose constraints on economic development and land use
    - 7.4.3. relatively few water bodies being highly protected in a pristine or natural state
    - 7.4.4. a very few water bodies being degraded if it is agreed that the economic benefits are sufficient to outweigh other costs
  - 7.5. market-based instruments, partnership and collaborative approaches, capability and capacity building, and communication tools will be considered as well as regulatory options
  - 7.6. some policy options may fall outside the scope of the Resource Management Act 1991

*Role of Māori in developing policy options*

8. **note** that the previous Government and an Iwi Leaders Group agreed to a joint Māori work programme to:
  - 8.1. incorporate Māori perspectives in policy development, and
  - 8.2. explore management options (including allocation mechanisms)
9. **note** that:
  - 9.1. on 24 March 2009, at a meeting with senior Ministers, the Iwi Leaders Group tabled a statement regarding freshwater engagement seeking certain commitments from the Crown
  - 9.2. on 1 May 2009 the Prime Minister wrote to the Iwi Leaders Group with a commitment to meaningful engagement with iwi, which includes:
    - 9.2.1. regular meetings between iwi leaders and Ministers
    - 9.2.2. further discussion on the joint freshwater work programme, priorities and projects

- 9.2.3. development of communication and information exchange protocols
- 9.3. on 26 May 2009, the Cabinet Economic Growth and Infrastructure Committee (EGI):
  - 9.3.1. agreed to a draft framework for a protocol of engagement with iwi leaders on fresh water
  - 9.3.2. invited the Minister for the Environment to report back to EGI in [withheld] with a finalised protocol for agreement by Cabinet [EGI Min (09) 10/4 refers]
- 10. **note** that discussions with iwi leaders may raise some challenging issues, and that identification of some joint outcomes for this engagement will be important to the success of the relationship

*Developing a shared understanding*

- 11. **agree** to the use of a collaborative process run by the Land and Water Forum, which shall:
  - 11.1. develop options to achieve outcomes and goals for improved water management
  - 11.2. include stakeholders with a wide range of perspectives, including rural, industrial and urban
  - 11.3. include local and central government in the role of active observers
  - 11.4. if possible, develop a discussion document and run a public consultation process on outcomes, goals and long-term strategies
  - 11.5. make non-binding recommendations to Government by [30 July 2010]
- 12. **agree** that:
  - 12.1. mandated iwi representatives may choose to be a part of the Land and Water Forum process
  - 12.2. Ministers will consult with the Iwi Leaders Group on the recommendations made by the Land and Water Forum before making subsequent policy decisions
- 13. **note** that, until the collaborative process is complete, an indicative outcomes framework will be used to guide development of policy options
- 14. **note** that is necessary to build a consensus for change before implementing significant new policies, and there will be further stakeholder and/or public engagement on policy options in those areas

*Sequencing of work*

- 15. **agree** that work commence immediately on:
  - 15.1. shared outcomes, goals and long-term strategies (as set out in recommendation 11), and
  - 15.2. policy options with regard to allocation, water quality and infrastructure

16. **note** that the immediate focus of the policy work is likely to be on areas needed to support decision-making on allocation and quality, such as continued engagement with Māori and technical work
17. **note** that the statutory process of consultation on the proposed National Policy Statement for Freshwater Management will also continue, with the Board of Inquiry's recommendations expected in January 2010

*Linkages*

18. **note** that:
  - 18.1. careful management and coordination is needed with work on co-management arrangements for natural resources through Treaty of Waitangi settlements
  - 18.2. further consideration will be given to how the water-related initiatives proposed at the Jobs Summit might fit with and be advanced through this work programme, if appropriate

*Next steps*

19. [paragraph withheld]
20. **invite** the Minister for the Environment and the Minister of Agriculture to report back to EGI in [withheld] with terms of reference and interim funding arrangements for the collaborative process set out in recommendation 11
21. **invite** the Minister for the Environment and the Minister of Agriculture to report back to EGI in [withheld] with:
  - 21.1. a detailed, sequenced and prioritised work programme to:
    - 21.1.1. build a consensus for change through collaborative processes and public engagement
    - 21.1.2. work with iwi leaders and Māori advisers
    - 21.1.3. develop policy options
  - 21.2. proposed timelines for making final decisions on policy direction
  - 21.3. terms of reference as required under the regulatory review programme [CAB Min (09) 6/5A refers]

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Hon Dr Nick Smith  
**Minister for the Environment**

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Hon David Carter  
**Minister of Agriculture**

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## **Appendix 1: Background on Sustainable Water Programme of Action**

80. The Sustainable Water Programme of Action (SWPOA), led jointly by the Minister for the Environment and the Minister of Agriculture, was established in 2003. The SWPOA had three initial work areas: water allocation and use, water quality, and water bodies of national importance.
81. A discussion document on issues and options was released in late 2004, and an extensive consultation round (with meetings and hui around New Zealand for stakeholders/public, Māori, local government) took place in early 2005.
82. In 2006, the SWPOA implementation package was agreed by Cabinet and structured around three outcomes: building and enhancing partnerships to improve the quality and efficient use of freshwater managing the undesirable effects of land use on water quality, and managing the growing demands for water (CAB Min (06) 11/11 refers).
83. The main deliverables of the 2006 package are being progressed:
  - a. Proposed National Policy Statement (NPS) for Freshwater Management: out for public consultation (submissions on draft NPS received by independent Board of Inquiry, and further submissions sought)
  - b. National Environmental Standard (NES) for Measurement of Water Takes: legal drafting in progress
  - c. National Environmental Standard on Ecological Flows and Water Levels: public consultation complete, summary of submissions in preparation
  - d. Primary Sector Water Partnership: implemented
84. The two NESs will be crucial to improving the quality of information available to water managers, and to setting the ecological limits within which decisions must be made. As such, the NESs are the foundation for further work on improving water allocation and quality.
85. In 2007 the previous Government and iwi leaders agreed to a relationship between Ministers and iwi leaders on freshwater management, and a joint work programme between officials and iwi advisers was set up in 2008. The aim is to enhance decision-making in freshwater management by having greater and more consistent Māori involvement and to incorporate Māori perspectives at the national and regional levels. The joint work programme has projects in two main areas:
  - a. Workstreams on exploration of existing practice and implementation (with projects to be completed by mid 2009) for:
    - i. Māori engagement
    - ii. including tangata whenua science in environmental flow-setting decisions and options for improvement
    - iii. gaining Māori perspectives on current approaches to water allocation.
  - b. Management options including allocation mechanisms: to be scoped further in 2009.

[Appendix 2 to 5 withheld]