

Reference: 20200349

4 November 2020

s9(2)(a)

Dear s9(2)(a)

Thank you for your Official Information Act request, received on 6 October 2020. You requested the following:

*Can you please provide me with a copy of Treasury's advice to the Government on its proposed Essential Freshwater Reforms which were implemented earlier this year.*

### Information being released

Please find enclosed the following documents:

Item	Date	Document Description	Decision
1.	13 March 2020	Aide Memoire: Sustainable Land Use Ministers' Meeting	Release in part
2.	24 April 2020	Ministerial Consultation Briefing: Action for Healthy Waterways	Release in full
3.	8 May 2020	DEV Briefing: Action for Healthy Waterways	Release in part

I have decided to release the relevant parts of the documents listed above, subject to information being withheld under one or more of the following sections of the Official Information Act, as applicable:

- advice still under consideration, section 9(2)(f)(iv) – to maintain the current constitutional conventions protecting the confidentiality of advice tendered by Ministers and officials, and
- direct dial phone numbers of officials, under section 9(2)(k) – to prevent the disclosure of information for improper gain or improper advantage.

Direct dial phone numbers of officials have been redacted under section 9(2)(k) in order to reduce the possibility of staff being exposed to phishing and other scams. This is because information released under the OIA may end up in the public domain, for example, on websites including Treasury's website.

In making my decision, I have considered the public interest considerations in section 9(1) of the Official Information Act.

Please note that this letter (with your personal details removed) and enclosed documents may be published on the Treasury website.

This reply addresses the information you requested. You have the right to ask the Ombudsman to investigate and review my decision.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Gwen Rashbrooke', with a stylized, cursive script.

Gwen Rashbrooke  
**Manager, Natural Resources**

# OIA 20200349

## Information for Release

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IN-CONFIDENCE



Reference: T2020/638 SH-10-0 (Environment)

Date: 13 March 2020

To: Minister of Finance (Hon Grant Robertson)

Deadline: 16 March 2020

## Aide Memoire: Sustainable Land Use Ministers' Meeting

Sustainable Land Use Ministers will be meeting on 16 March to receive a briefing on the proposals for Essential Fresh Water (EFW) reforms in advance of Ministerial Consultation on an 8 April DEV paper. We anticipate that a key focus of the meeting will be for Ministers to become familiar with the elements of the policy package where Ministers Parker and O'Connor are agreed.

This aide memoire is intended to provide you with an update on the EFW reform package (based on the draft meeting material) and proposes questions that could be posed to the lead Ministers. Since work is still underway on the policy options and resulting impact analysis, we will provide you with a separate briefing to support Ministerial Consultation.

### Recent Developments

Over recent months since the completion of the public consultation process:

- Ministry for the Environment (MfE) and Ministry for Primary Industries (MPI) officials have been working together to review policy proposals that can best support the Government to achieve its objectives in light of the feedback received. Officials from these two agencies are aligned in policy proposals around the majority of the policy reforms within the proposed package
- The Independent Advisory Panel (IAP) which was tasked with reviewing consultation feedback, has generally taken positions that moderated the proposals in the original consultation document to have less likely economic impact / less national regulation / more flexibility for councils overall.
- There has been an extensive programme of impact analysis modelling undertaken by MfE and MPI to fill gaps in the information available when the EFW consultation paper was released in August. The Treasury has been engaged in this process and will peer review the Computable General Equilibrium (CGE) modelling when it is available early next week.

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### Impact analysis

The impact analysis is still ongoing and the material being presented to SLU Ministers is based on preliminary results that still require validation through external peer review over the coming weeks. The modelling of the overall economic impact and impacts on Maori were not available in time to inform the materials being circulated. Elements of the analysis are now also being re-run to reflect potential policy changes arising from the consultation, independent advice and the initial outputs from the impact analysis.

The modelling is helpful to give a sense of the potential magnitude of impacts, although at this stage it would be unhelpful to get too fixed on the specific numbers presented. A key element of the analysis has been to distinguish between the current state, the costs and benefits of implementing current policy settings (rules that are in place but not yet implemented), and the cost and benefits of the EFW reforms. This provides a view of both the total cost of change for affected stakeholders (over the implementation period) and the marginal impact that the EFW reforms will have when changes required by existing policies are taken into account.

- For example, most of the change required to meet the Nitrogen (N) bottom line proposed in the EFW reforms would be delivered through implementation of the 2017 National Policy Statement – Freshwater (2017 NPS). Based on the modelling, this would require both on-farm mitigations (eg, fencing, changes in fertilizer usage) and a significant amount of land use change (ie, afforestation).
- There is however some material regional variation, particularly in Canterbury which would bear 3/5 of the total national cost of compliance with the N bottom line in the EFW reforms.

Our focus in working with agencies and their consultants has been to develop a strong foundation to understand the cost impacts of the proposals. We have less visibility of the monetary benefits identified, which are undoubtedly more difficult to quantify and attribute to the marginal impact of the EFW reforms.

### Key risks and mitigations

*Timing of Decision making:* There is a risk that by making decisions prior to completing the impact analysis, Ministers could adopt a sub-optimal policy direction on the basis of incomplete or contestable information. While the process has been under substantial time pressure, a lot of additional work can be completed before Cabinet is set to consider the reforms on 20 April. This risk can be mitigated if Ministers are open to revisiting decisions should new information arise. At this juncture, the Treasury has not adopted a formal position on the reform package, given the fluid nature of the policy process and the resulting uncertainty around the impacts.

*Maori Engagement:* Maori groups expressed serious reservations about the EFW reform engagement processes in response to the public consultation:

- Maori groups believe that the process has not been conducted in good faith, and has not involved them in their rightful status as a Treaty Partner and as co-governors of particular rivers resulting from deeds of settlement.

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- The New Zealand Maori Council has questioned whether EFW reforms are consistent with the Treaty of Waitangi and Maori rights and interests in freshwater. They have established a national taskforce on water and a case is being taken to the High Court to test the ownership of water.
- Formal analysis on the socio-economic impact of the EFW reforms on Maori is not yet available, it is due to be delivered on 20<sup>th</sup> March.

Maori engagement is considered a key risk at present but also one that is likely to escalate in future, as good relationships with Maori/Iwi will be key to the success of emerging water allocation policy development.

*Stakeholder re-engagement:* The impact analysis has been developed under significant time pressure by officials, supported by consultants and expert peer reviewers. There has not been an opportunity to re-engage with key stakeholders (Dairy NZ, Local Government NZ, etc.) who had raised significant concerns early in the process, on how the impact modelling has been approached or the results that have emerged. Re-engagement by officials with key stakeholders to socialize the impact analysis could help to inform their understanding of the underlying modelling in order to build confidence in the approaches taken.

### Outstanding decisions

For the most part officials have been able to resolve issues of contention within the package, resulting in some significant shifts from the proposals in the consultation document. The main outstanding decision is the inclusion of the Dissolved Inorganic Nitrogen (DIN) bottom line. DIN is the major remaining driver of cost in the EFW reforms, the science is uncertain and its impact is largely in the dairy sector.

s9(2)(f)(iv)

### Proposed Questions for Lead Ministers

- The 2017 Freshwater NPS, once implemented, will achieve significant changes and deliver significant improvements to water quality. Given this, can Ministers set out the marginal environmental benefits of the EFW package and whether they will outweigh the additional compliance costs?
- Since the impacts are focused in a few regions, what are the opportunities to adopt a more flexible transition approach that target support to affected Councils and farmers in those regions?
- How are the concerns raised by Maori/Iwi about the Crown's obligations as a Treaty Partner and under existing deeds of settlement being addressed?
- How do lead Ministers intend to engage with key stakeholders to socialize the impact analysis?

Davin Hall, Principal Advisor, Natural Resources, s9(2)(k)

Gwen Rashbrooke, Manager, Natural Resources, s9(2)(k)

<b>Title of paper</b>	ACTION FOR HEALTHY WATERWAYS – DECISIONS ON NATIONAL DIRECTION AND REGULATIONS FOR FRESHWATER MANAGEMENT
<b>Minister and agency</b>	Minister for the Environment, The Ministry for the Environment (MfE) and Minister of Agriculture, The Ministry for Primary Industries (MPI)
<b>Description</b>	The paper seeks agreement to aspects of the Action for Healthy Waterways package which includes regulation to stop the degradation of New Zealand's freshwater and return it to a healthy state within a generation.
<b>Comments</b>	<p>Timeframes and competing priorities have affected Treasury's ability to review the analysis. Therefore, we have assessed outcomes based on MfE's modelling of costs and benefits rather than the details of the modelling process itself. The monetisation of costs and benefits are driven by a number of contestable assumptions which leads to some uncertainty.</p> <p><i>Overview and total impacts</i></p> <p>The proposals have been significantly refined due to the impacts of COVID-19 and stakeholder feedback. Refinements have significantly reduced costs for local authorities and farmers (costs have reduced by almost half relative to original proposals). The majority of costs have also been deferred beyond 2023 to account for COVID-19 related economic disruption expected in the near future. This has been achieved whilst maintaining the majority of the environmental benefits sought.</p> <p>MfE/MPI analysis indicates a net benefit to New Zealand of \$261m per annum over 30 years. The majority of costs will fall on the primary sector. Costs to farmers of the 3 key policies in the package are projected to be a \$113.9m reduction in farm profits per annum compared to \$11,338m Agriculture sector GDP per annum. MfE/MPI analysis indicates this reduction in expected output in the Agriculture sector is expected to have an impact on aggregate GDP in New Zealand of &lt;0.1%.</p> <p><i>Timing of impacts</i></p> <p>Delaying costs and providing certainty on the full package of reforms is valuable for the agriculture sector. The deferral of costs will enable the agriculture sector to better contribute to the economic recovery after COVID-19 whilst helping land owners to make informed decisions on their future and plan any land use change or on-farm mitigations. The majority of costs will now be delayed until after 2023 primarily as a result of the delayed National Policy Statement for Freshwater Management (NPS-FM) implementation.</p> <p><i>Regional distribution of impacts</i></p> <p>Costs are not shared equally across regions, and costs will be concentrated (for farmers and councils) in Canterbury, Otago, Southland and Waikato. The most recent version of NZIER modelling projects the largest percentage decreases in regional GDP will be 0.34% in Southland and 0.2% in Canterbury by 2050 on top of the significant percentage decreases assumed to become compliant with the current 2017 NPS. In order to reduce nitrogen pollution, some land use change from dairy to other uses is expected, and almost all of this change is accounted for by Canterbury and Waikato. The socio-economic effects specific to these regions</p>

	<p>have not been addressed in detail but alternative employment opportunities may be compromised by COVID-19 related economic disruption.</p> <p><i>Regulatory Impact Assessment</i></p> <p>A review panel with representatives from Treasury's Regulatory Quality Team, MfE and MPI has reviewed the Regulatory Impact Analysis and considers the overall package "partially meets" the quality assurance criteria. The "partially meets" rating reflects information and data constraints. MfE's approach to the analysis is generally sound, based on relevant available data and the case for change has been made.</p> <p>Adaptive management of the implementation process can help deal with uncertainty, support the capacity of key actors and prevent concentrated cumulative impacts of the reforms. Given the complexity of the package, the governance arrangements need to be carefully designed to ensure adaptive implementation and linkages with other related government programmes.</p>
<b>Consulting Minister's due date</b>	Wednesday 29 <sup>th</sup> April
<b>Cabinet or Cabinet Committee</b>	TBC
<b>Fiscal implications</b>	<p>There are no direct fiscal impacts of this package. However, the majority of costs fall on a few regions, particularly Canterbury, Otago, Southland and Waikato. Targeted support may be proposed for these regions to prevent compounding socio-economic effects and subsequent indirect costs. Clarification of how this package interacts with existing Sustainable Land Use (SLU) bids and those put forward for the COVID response and recovery fund would be desirable, and this is included in the recommendations section below.</p>
<b>Recommended action</b>	<p>We recommend you provide the following feedback to the Minister for Environment and Minister of Agriculture:</p> <ul style="list-style-type: none"> <li>- Clarity is required on the extent to which SLU budget bids and support is "required" or "desirable" in order to support the proposals. Linkages between the regulations in this paper and SLU budget bids should be detailed</li> <li>- Costs fall disproportionately on a small number of regions (notably, Canterbury, Waikato, Otago and Southland). Are ministers considering targeted support to mitigate impacts in the most-affected regions, and if so, how?</li> </ul>



**Paper Title:** Action for Healthy Waterways – Decisions on national direction and regulations for freshwater management

Hon David Parker, Minister for the Environment

Hon Damien O'Connor, Minister of Agriculture

Treasury contact: Hamish Clifton s9(2)(k)

Sign out contact: Gwen Rashbrooke s9(2)(k)

**Description:** The paper seeks agreement to aspects of the Action for Healthy Waterways package which includes regulation to stop the degradation of New Zealand's freshwater and return it to a healthy state within a generation.

Comments	Fiscal Implications	Treasury Recommendation
<p>At the time of writing this briefing, the Treasury has had limited time to review the lodged version of the Cabinet paper. Timeframes and competing priorities have affected Treasury's ability to review the analysis. Therefore, we have assessed outcomes based on the Ministry for the Environment's (MfE) modelled costs and benefits rather than the details of the modelling process itself.</p> <p>Since public consultation, the proposals in this paper have been significantly refined due to the impacts of COVID-19 and stakeholder feedback. Refinements have significantly reduced costs for local authorities and farmers. The majority of costs have been deferred beyond 2023.</p> <p>The paper indicates a net benefit to New Zealand of \$193m per annum over 30 years. Costs to farmers of the three key policies in the package are projected to be a \$113.9m reduction in farm profits per annum compared to \$11,338m Agriculture sector GDP per annum. The paper indicates that the package is expected to reduce aggregate GDP in New Zealand by &lt;0.1%. However, the majority of costs will disproportionately impact the primary sectors in Canterbury, Otago, Southland and Waikato.</p> <p>Progressing with the package now provides certainty for farmers, landowners and local authorities. Delaying action will lead to greater costs of mitigating freshwater degradation in future.</p>	<p>The paper references that further funding will be "critical" to ensure effective implementation, particularly for councils and Maori implementation support.</p> <p>s9(2)(f)(iv)</p> <p>The Treasury supports the decisions in this Cabinet paper being made at this stage, and implementation funding being considered at a later stage. However, if you are concerned about new funding being required for implementation, you could provide feedback to the Lead Ministers. Your feedback could state that the Lead Ministers will need to consider how the proposals could be made to work within a range of funding options to manage implementation, as it is uncertain whether new funding will be provided.</p> <p>Any new implementation funding required will be in addition to leveraging existing sources of funding to support the package which includes the Productive and Sustainable Land Use package in Budget 2019.</p> <p>Alongside the national direction and regulation outlined in this paper, the Government is also considering complementary investments aimed at improving water quality and generating employment. This includes funding in the current COVID Response and Recovery Fund package and potential funding from the Provincial Growth Fund.</p>	<p>Support</p>