



**Joint Briefing:** Briefing note to accompany Cabinet Paper 09-C-01839  
Regulations on measurement and reporting water takes

<b>Date:</b>	6 November 2009	<b>MfE Priority:</b>	<b>URGENT</b>
<b>Security Level:</b>	CLASSIFICATION	<b>Number of Attachments:</b>	Nil
		<b>MfE Ref No:</b>	09-B-3375
		<b>MAF Ref No:</b>	B09-344

**Action Sought**

	<b>Action Sought</b>	<b>Deadline</b>
Minister for the Environment Hon Dr Nick Smith	Sign the attached Cabinet paper	12 November – proposed date for submission to senior officials group 25 November – targeted meeting of EGI
Minister of Agriculture and Forestry Hon David Carter		

**Ministry for the Environment Contacts**

<b>Name</b>	<b>Position</b>	<b>Telephone</b>		<b>1st Contact</b>
		<b>(cell)</b>	<b>(work)</b>	
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**Ministry of Agriculture and Forestry Contacts**

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## Executive Summary

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The attached Cabinet paper, *Regulations on the measurement and reporting of water takes*, sets out a proposal to use regulations made under section 360(1)(d) of the Resource Management Act 1991 (RMA) to set minimum requirements around the measurement and reporting of water takes in place of a previously approved national environmental standard (NES).

Further to our earlier briefings to you, we have updated the cost benefit assessment for the proposed NES to reflect changes in the costs of meters, updated consent data and the use of section 360 regulations instead of an NES. We note that the updated costs to consent holders are greater than previously estimated, regardless of which form of regulation is used. This is because the total number of consents has increased across the country, and because the regional councils have been able to provide clearer indications of how the regulations would affect existing consents than previously. However we are still confident that the benefits of the proposal far outweigh the costs. In addition, the benefits are expected to predominantly lie in the same areas that the majority of the costs lie. Of all the options considered to date, we consider that this proposal provides the highest net benefits

The accompanying Regulatory Impact Statement has been approved by the Regulatory Impact Assessment Unit.

Recommended Action

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**We recommend that you:**

- (a) **Sign** the attached Cabinet paper for Cabinet Economic Growth and Infrastructure Committee. **Yes / No**

Glenn Wigley  
Manager, Resource Management Tools  
**Ministry for the Environment**

Phillip Parkes  
Manager, Environment  
**Ministry for Agriculture and Forestry**

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

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Hon David Carter  
**Minister for Agriculture**

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## **Purpose of Report**

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1. To obtain your approval for the attached Cabinet paper, *Regulations on the measurement and reporting of water takes*, and a Regulatory Impact Statement (RIS) to go to Cabinet Economic Growth and Infrastructure (EGI) Committee on 25 November 2009.
2. To summarise the contents of the Cabinet paper and RIS, and highlight key issues for your consideration. Previous briefings to you have described the content of the proposed regulations (MFE Refs 09-B-1529, -2456, -2847; and MAF Refs B09-158, -243 refers). Further to those briefings, the key issues for your consideration are around the costs and benefits of the proposal.

## **Background**

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3. Approval is sought to use regulations made under section 360(1)(d) of the Resource Management Act 1991 (RMA) for the measurement and reporting of water takes in place of a national environmental standard (NES) which was approved by the previous Cabinet for drafting in February 2008 [Pol Min (08) 2/2 refers].
4. The proposed regulations will have the same policy objectives and equivalent minimum requirements to the agreed NES. However they will be simpler and will save around \$5.2 million in transactions costs to councils compared to an NES. They will also apply to Otago mining privileges to which a NES could not apply. Other costs and benefits are the same regardless of which form of regulation is used – these are summarised below.
5. If the Cabinet paper is approved, we will instruct the Parliamentary Counsel Office (PCO) to draft regulations under section 360(1)(d) of the RMA to give effect to these policy decisions. Timelines for when regulation is in force depends on the priority given to drafting of other regulation. However, it is aimed to have the regulations operative by March 2010.

## **Updated Costs and Benefits**

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6. Further to our previous briefing to you, we have commissioned an update to the cost benefit assessment for the proposed NES (Harris Consulting, 2007) to reflect changes in the costs of meters, updated consent data and the use of section 360 regulations instead of an NES.
7. The attached summary table from the updated cost benefit assessment (Harris 2009) indicates where costs and benefits will lie.
8. We note that the costs to consent holders are greater than previously estimated, regardless of which form of regulation is used. This is because the total number of consents has increased across the country, and because the regional councils have been able to provide clearer indications of how the regulations would affect existing consents than previously.
9. The only benefits quantified in dollar values are gains in allocative efficiency which is the value of freeing up water as a result of understanding how much water is used versus what is allocated. The quantifiable benefits are estimated to be greater than the overall costs in the regions with the greatest pressures (Canterbury, Otago, Tasman, Marlborough and Waikato). Furthermore, the intangible benefits have not

been included in this equation and will be wider-reaching and considerably greater than the allocative efficiency gains.

10. The intangible benefits of the proposed regulations are largely associated with the expedited capacity (compared to the status quo) for understanding the available resource and improvements in water management as a result. Demands for fresh water are increasing in some regions, and shortages can be felt at certain times of the year. The volume of water allocated for uses such as irrigation, domestic use and for manufacturing grew by around 50 per cent between 1999 and 2006.
11. These benefits will lie at a national, regional and user level. For example, at a national level, accurate water use information will assist the nation in meeting its international (OECD) obligations to report the status of, and changes to, its natural environment. At a user level, actual water take information would be a critical basis for any market based allocation models.
12. The estimated costs of the proposed regulations lie predominantly with consent holders (98%), however the proposal will also result in benefits to these consent holders. In addition, the current distribution of consents (nationally 30% of water take consents are in Canterbury and 78% are for irrigation) indicates that those most affected by the proposal in terms of cost are also most likely to see the benefits in terms of allocative efficiency gains.
13. Accurate, complete and current water take information underpins several key elements of the Government's *New Start for Fresh Water* policy programme, including allocation mechanisms, addressing over-allocation, setting limits and assessing rural infrastructure requirements.
14. Of all options, the proposed regulations provide the highest net benefits.

**Table 1.  
Magnitude of costs/ benefits**

			Magnitude		Affected group
			NES	Section 360	
<b>Cost</b>	PV <sub>8%</sub> cost of NES	Quantified	\$52.5 million	\$52.5 million	Existing consent holders
			\$5.8 million	\$0.6 million	Regional council
			\$0.6 million	\$0.6 million	Central government
	<b>Total PV<sub>8%</sub> Cost of Scenario</b>			<b>\$58.9 million</b>	<b>\$53.6 million</b>
<b>Benefit</b>	Management of freshwater resources	Qualitative	Improved	Improved	Regional council and the wider regional community
	Determination of environmental flows	Qualitative	Improved	Improved	Regional council and the wider regional community
	Compliance monitoring	Qualitative	Significantly improved	Significantly improved	Regional council, consent holders and the wider regional community
	Transaction costs at consent application	Qualitative	Possible reduction	Possible reduction	Regional council, consent applicants and the wider regional community
	Technical efficiency	Qualitative	Can provide benefit in some situations	Can provide benefit in some situations	Consent holders
	Allocative efficiency	Quantified	Allocative efficiency gain 2.5% - benefit = \$27 million Allocative efficiency gain 5% - benefit = \$54 million Allocative efficiency gain 7.5% - benefit = \$81 million Allocative efficiency gain 10% - benefit = \$108 million		Applicants for new consents and existing consent holders, where the latter are able to exploit the knowledge that they are not fully utilising their consented allocation
	Reporting and understanding actual water take	Qualitative	Significantly improved	Significantly improved	Regional council, central government, consent holders and consent applicants