



Subject of Briefing: Cabinet Paper- Regulations for the measurement and reporting of water takes

Date:	11/04/10	MfE Priority:	Non-urgent
Security Level:	CLASSIFICATION	Number of Attachments:	Two: Draft Cabinet paper, Draft RIS
		MfE Ref No:	10-B-00659

Purpose

	Action Sought	Deadline
Minister for the Environment Hon Dr Nick Smith	Read Cabinet paper and indicate whether you are happy for it to be sent to OEGI officials' committee.	8 April 2010

Ministry for the Environment Contacts

Name	Position	Telephone		1st Contact
		(cell)	(work)	
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Executive Summary

1. You are presenting a joint paper with the Minister for Agriculture to Cabinet seeking approval to draft regulations, that require holders of resource consents to take water, to measure and report the amount of water taken under their consents.
2. Main points to note are:
 - The paper is seeking approval to change the regulatory mechanism used to achieve a previously agreed (by Cabinet) policy. This will be achieved by using a different section of the Resource Management Act (s360 instead of a national environmental standard under s43)
 - The change will achieve the same outcome more efficiently and provide more flexibility to business in how they comply with the regulations than the previously agreed mechanism
 - The regulations will not apply to water takes below five litres per second.
3. The total costs of the proposal are estimated to be \$41 million over 35 years, of which 98% will be costs to consent holders. The quantifiable benefits from allocative efficiency¹ gains alone are estimated to be in the order of \$101 million. This equates to a positive (allocative efficiency) benefit of \$60 million. This does not include intangible benefits to communities and key sectors such as irrigation and tourism. Additionally the contribution to improved water management will be considerably greater.

¹ Allocative efficiency in this context refers to the difference between the volumes of water consented and what is actually used by a consent holder. Measurement can lead to more accurate water use, freeing up additional resource for other uses.

4. You discussed transitional arrangements with Hon David Carter and jointly agreed that a phased approach was appropriate as follows:
 - takes 20 litres per second or greater – within 2 years (92% of the total consented allocation nationwide)
 - takes greater than 10 litres per second and less than 20 litres per second – within 4 years
 - takes of 5 litres per second or greater up to 10 litres per second – within 6 years
5. This differs from the previous approach that saw a single compliance date of five years from gazettal of the regulations for all qualifying resource consents to comply.
6. The value of requiring the measurement of consented water takes is widely acknowledged as an essential tool in managing our fresh water resources.
7. The attached Cabinet paper and Regulatory Impact Statement have been sent to you for comment. Following your feedback, the material will be sent to the OEGI official's committee before being returned to you for signing.

Level of accuracy for open channel water takes

8. There is one issue we want to flag with you. There has been some debate between MAF & MFE officials regarding the minimum accuracy requirements for open channel water takes.
9. Open channel takes represent approximately two percent of consented water takes but 20 percent of the total allocation (approximately 200 in number of which the majority are in Canterbury and Otago). This is where some of the greatest allocative efficiency gains will be realised.
10. Higher allocative efficiency gains are particularly likely if major future increases in allocation in Canterbury occur from increased use of open channel takes from large alpine fed rivers (as was signalled in the Canterbury Water Management Strategy).
11. A minimum accuracy requirement of +/- 10% has been set for open channel water takes compared to +/-5% for pipes. This is based on feedback through consultation and investigation into what is realistically achievable at present based on current technology and cost of compliance.
12. It is questionable whether the open channel minimum accuracy requirement of +/-10 percent is suitably stringent to underpin any future change toward a market based approach toward water management. The issue is how we flag to consent holders that the minimum accuracy requirements for open channel takes may be made tighter in future.
13. We believe the priority at present should be to introduce the water measurement framework and have it bed down. Changes in accuracy requirements can be introduced in future if they are required in order to implement market based water management policies, if they are developed. This will allow the initial investment costs for consent holders to be kept to a level commensurate with the level of information required.
14. The Australian federal government advocates a minimum accuracy of +/- 5% for open channel takes. However we have not been able to find evidence at a state level that this is actually being achieved at present.
15. The cost of achieving an accuracy of +/- 5% for open channel water takes has not been quantified. However, Ministry of Agriculture and Forestry officials suggest this will be significant and possibly up to four times the cost of achieving +/- 10 percent accuracy. It is likely that advancements in technology will, in future, reduce the cost of improved accuracy of measurement.

16. We do not consider additional costs to open channel consent holders to achieve a higher level of accuracy is justifiable at present. To achieve this in the future, two options have been identified:

1. We can specify in the regulations that an improved level of accuracy has to be met by a certain date. For example within 10 years minimum accuracy requirements for open channel takes will be +/-5%, the same as for piped water takes.

2. Through a clear statement, or in the regulations, the Government can flag that minimum accuracy requirements in the regulations will be reviewed in future if it is considered necessary.

	Pro's	Con's
Option 1. +/- 5% accuracy in 10 years	<ul style="list-style-type: none"> • Provides clarity and certainty to the accuracy levels required in future • Brings requirements in line with piped takes 	<ul style="list-style-type: none"> • Accuracy requirements may still change in future, 5% may not be appropriate. • Has not been consulted on. • Will be met with significant opposition • Risk to effective implementation
Option 2. Review accuracy requirements in future to meet future requirements	<ul style="list-style-type: none"> • Future costs of improvements likely to be less than present • Future accuracy requirements can be matched to their need if and when required • Has been consulted on and previously agreed by Cabinet 	<ul style="list-style-type: none"> • Uncertainty for consent holders • May require increased investment to meet unforeseen requirements.

17. We prefer option two and have included it in the Cabinet paper, but we consider you should be made aware of the other possible option.

18. Provided you are happy with the content and your Cabinet colleagues agree, we will be in a position to work with the Parliamentary Counsel Office to draft the regulations. Notwithstanding any unforeseen hitches or resourcing constraints at Parliamentary Counsel Office, the regulations should be in force by the end of the year.

19. Publicity arrangements will be discussed with you at status prior to the Cabinet meeting.

Recommended Action

We recommend that you:

Either

- a) **Provide feedback** to officials on the proposed approach

Yes / No

Or

- b) **Agree** to use the attached Cabinet paper for consultation with the OEGI Officials' committee

Yes / No

Mark Sowden
Director
Natural and Built Environment

Date

Hon Dr Nick Smith
Minister for the Environment

Date