



Cabinet Economic Growth and Infrastructure Committee

EGI (10) 66

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Summary of Paper

23 April 2010

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Measurement and Reporting of Water Takes: Proposed Regulations

Portfolios

Environment / Agriculture

Purpose

This paper seeks agreement to develop regulations under the Resource Management Act 1991 (RMA) to require holders of water take consents to measure and report the amount of water taken under their consents.

Previous Consideration

In February 2008, the previous government agreed that a draft National Environmental Standard be prepared under the RMA, to require holders of water take consents to measure and report the amount of water taken under their consents [POL Min (08) 2/2].

In September 2009, Cabinet agreed to the *New Start for Fresh Water* policy programme. One of the component projects relates to environmental flows and water measuring [EGI Min (09) 20/6].

Summary

More accurate measurement of water use is critical to improving freshwater management. Many elements of the *New Start for Fresh Water* programme require accurate water use information, eg to inform future decisions on water allocation and rural water infrastructure.

Water managers (primarily regional councils) have relatively good information on the amount of water allocated through the resource consent process, but there are gaps in information on the actual volumes of water taken under those consents.

In February 2008, following widespread consultation, it was agreed that a National Environmental Standard (NES) on Measurement of Water Takes be prepared, under section 43 of the RMA. The policy objectives include:

- ensuring consistent measuring and reporting of actual water taken at national, regional and catchment levels;
- enabling water users and regulators to easily determine compliance with water take consents;
- provide accurate information about actual (consented) water taken in any catchment;
- ensuring the comprehensive uptake of water measuring in a cost effective and timely way;

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- improving allocative efficiency through accurate measurement of water abstracted for consumptive uses.

It is considered that these objectives can be better achieved through regulations made under section 360(1)(d) of the RMA, rather than through the NES process. The proposed regulations would be simpler and estimated to save regional councils in the order of \$3.3 million in transaction costs compared to the NES. It will also enable the minimum standards to apply to historic mining privileges held by some water users in the Otago region – the NES would not have applied to these permits.

The proposed regulations would apply to all new and existing, consented, water takes that take water at a rate of five litres per second or greater (with some exceptions). Councils would be able to require metering of water takes below this threshold, through their own plans or resource consent processes. A phased transition period would apply for existing qualifying water takes.

**Regulatory
Impact Analysis**

A Regulatory Impact Statement (RIS) is on pages **18-35**. The Ministry for the Environment considers the RIS to be adequate according to the adequacy criteria.

**Baseline
Implications**

None.

**Legislative
Implications**

Regulations are proposed under the RMA.

Timing Issues

There will be a transitional period of up to six years for existing consents to comply.

Announcement

The Minister for the Environment intends to make an announcement on the measuring and monitoring of water takes when he speaks at the Jenny Shipley lecture on Canterbury Water on 30 April 2010, in Christchurch.

Press statements will be issued prior to the regulations being promulgated, and the Ministry for the Environment will continue to develop an implementation package.

Consultation

Paper prepared by MfE and MAF. MED, TPK, Treasury, Health, DOC, DIA and Justice were consulted. DPMC and Education were informed. Iwi advisers were also informed. Stakeholders and regional council representatives were consulted, via an Implementation Taskforce Group.

The Minister for the Environment indicates that discussion is not required with the government caucus or with other parties represented in Parliament.

The Minister for the Environment and the Minister of Agriculture recommend that the Committee:

Background

- 1 note that in February 2008, the previous government approved the policy for a national environmental standard for the measurement of water takes, to be prepared under section 43 of the Resource Management Act 1991 (RMA) [POL Min (08) 2/2];
- 2 note that the policy objectives of the proposed national environment standard referred to above are to:
 - 2.1 ensure consistent measuring and reporting of actual water taken at national, regional and catchment levels;
 - 2.2 enable water users and regulators to easily determine compliance with water take consents;
 - 2.3 provide accurate information about actual (consented) water taken in any catchment (including the catchments of groundwater resources);
 - 2.4 improve allocative efficiency through accurate measurement of water abstracted for consumptive uses;
 - 2.5 ensure the comprehensive uptake of water measuring in a cost effective and timely way;
- 3 note that in September 2009, the Cabinet Economic Growth and Infrastructure Committee agreed to the *New Start for Fresh Water* policy work programme comprising ten projects, one of which relates to environmental flows and water measuring [EGI Min (09) 20/6];
- 4 note that consistent, accurate and complete water take information underpins the policy objectives of the *New Start for Fresh Water* programme, including objectives on setting appropriate environmental limits, improving freshwater allocation mechanisms, and addressing over-allocation issues;

Proposed regulations

- 5 note that regulations made under section 360(1)(d) of the RMA can better achieve the same policy objectives and minimum requirements that were approved by the previous government for a national environmental standard, and will result in a simpler regulatory framework across the country;
- 6 agree that regulations be made under section 360(1)(d) of the RMA, in place of regulations made under section 43 (a national environmental standard), to ensure consistent, accurate and complete measuring of the water takes across New Zealand;
- 7 agree that the proposed regulations will require the holders of all water take consents (and deemed permits) for the taking of five litres per second or more to collect and report records which meet the following minimum requirements:
 - 7.1 they are continuous records of the amount of water taken;

- 7.2 the continuous records must record daily volumes (or weekly volumes for some takes) in cubic metres, in an auditable format;
- 7.3 the records must be collected by water measurement/monitoring devices and systems which are:
 - 7.3.1 capable of recording daily volume in cubic metres to an in situ accuracy standard of +/- 5 percent for piped takes, and +/- 10 percent for open channel takes;
 - 7.3.2 capable of providing output in a form suitable for electronic data storage;
 - 7.3.3 appropriate to the qualities of the water being measured (including temperature and sediment content);
 - 7.3.4 sealed and as tamper proof as practicable;
 - 7.3.5 installed to comply with the manufacturers' instructions;
 - 7.3.6 installed in a location that measures all water taken (eg they are installed before the first outlet point downstream of the point of take);
 - 7.3.7 independently verified for accuracy every five years, or more frequently if recommended by the manufacturer/installer;
- 7.4 they are in the form of either manual or electronic records, as elected by the regional council;
- 8 agree that the regulations provide that the responsibility for recording and transferring data to the regional council rests with the consent holder, and that data is transferred to the regional council on at least an annual basis;
- 9 agree that the regulations include the ability for a regulatory authority to apply more stringent requirements on consent holders, including, but not limited to:
 - 9.1 the ability to require measurement of water takes below five litres per second;
 - 9.2 further requirements for measurement over the minimum standards specified by the regulations;
- 10 agree that the regulations include a transitional period for existing qualifying consents to comply with the regulations, as follows:
 - 10.1 takes of 20 litres per second or greater: within 2 years;
 - 10.2 takes of greater than 10 litres per second and less than 20 litres per second: within 4 years;
 - 10.3 takes of 5 litres per second or greater, up to 10 litres per second: within 6 years;
 - 10.4 new consents, reviewed consents, or replacement consents: required to comply from the date of the granting of the consent;

- 11 note that consultation was undertaken on the proposed policy intent during the development of the national environmental standard proposal, and in accordance with the requirements of the RMA;

Next steps

- 12 invite the Minister for the Environment to issue drafting instructions to the Parliamentary Counsel Office for regulations under section 360(1)(d) of the RMA, to give effect to the minimum requirements listed above, and for any consequential savings or transitional provisions that may be necessary;
- 13 13.1 authorise the Minister for the Environment and the Minister of Agriculture to approve the final details of the proposed exemptions, and any other technical changes that may be required to give effect to the policy set out in the paper under EGI (10) 66;
- 13.2 note that any changes will be reported to the Cabinet Legislation Committee when approval of the regulations is sought;
- 14 note that the Minister for the Environment intends to publicly release the paper under EGI (10) 66, including Cabinet's decisions, the Appendices, and the Regulatory Impact Statement.

Janine Harvey
Committee Secretary

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