



Regulatory Impact Statement

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Information

When writing a RIS agencies should:

- Complete each relevant section in the RIS template sufficiently, to enable informed responses on the policy issue, objectives, options and impacts;
- In the consultation phase, ask questions which prompt respondents to confirm and challenge the analysis, including estimates of the magnitude, scope and range of the impacts. In addition, ask respondents if there are further problems, feasible options or further impacts that should be considered; and
- Ensure that any assumptions made are clearly defined.

Submissions and Queries

Name of Proposal

Water resources management reforms

Department/Agency

Name of Contact

Position

Postal Address

Email

RIS Details

Comments and submissions are invited on the proposal, in response to information provided in this RIS. Agencies may elect to make all responses to the Consultation RIS publicly available. Written comments and submissions should be forwarded between the start and end dates, as detailed below. This document will then be developed into the Decision RIS.

Agencies should provide the following information at the relevant stages of RIS development

Consultation RIS Lodged

Consultation Start Date

Consultation End Date

Consultation Web-Link

Decision RIS Lodged

Executive Summary

This decision Regulatory Impact Statement (RIS) examines the impact of reforming the regulation of water resources in Western Australia and recommends that the current suite of water legislation be repealed and replaced with a new Act.

Governments regulate the use of water to help ensure that water remains available in the long term and as reliably as possible, and that the environment is protected. This helps maximise the long term value of water to the community and ensures its orderly use.

Current regulation of water resources in Western Australia commenced in the early 20th century and has significant weaknesses in its effectiveness and efficiency. Reforms and experience in other Australian states in the last two decades have shown improved methods for regulating water resources.

This RIS examines the costs and benefits of implementing a suite of water reform measures in Western Australia to reduce the costs to government and users of licensing and water trading, improve the definition of water entitlements, provide greater legal certainty, support water trading and address economic and administrative inefficiencies in the current regime. It advises that this would lead to better investments in water use, higher value use of water, greater flexibility to deal with climate variability and population growth and better protection of the condition of water resources.

The proposed reforms are underpinned by multiple rounds of consultation since 2005, which have shown support from water users and other stakeholders.

The overall costs of implementation are low. Costs to government would be implemented within existing resources of the Department of Water. The costs to users would consist primarily of the cost of installing meters as these are phased in over time.

1. Statement of the Issue

1.1 Background

Economic development, population growth and climate change increase the need for ensuring that maximum benefit can be obtained for the State from its limited water resources. The regulation of water resources helps to achieve this by ensuring that each user's share of the available resource is well defined, protected from unauthorised use and that sufficient share remains in the environment to protect essential environmental functions.

Water resources legislation in Western Australia is spread across six different Acts. The principal Act is the *Rights in Water and Irrigation Act 1914*, which sets out how users may take water from rivers and groundwater resources. In proclaimed areas (areas that have been proclaimed under the Act as being subject to licensing), it is illegal to take water from a watercourse or groundwater aquifer without a licence.

Conditions are placed on licences to define how and when water may be taken and to specify obligations that the licence holder must meet when using the water. Water can be taken from watercourses in unproclaimed areas without a licence so long as the

flow is not "sensibly" diminished so as to affect the rights of downstream users. Water can be taken in unproclaimed groundwater areas without a licence so long as the draw is not from an artesian aquifer.

Without regulation, many water users would not know if water would continue to be available in future or whether it would be taken by other users. This would create a bias towards uses of water requiring only shorter term and lower value investments. It could also lead to permanent damage to water resources and the environmental assets that depend on these. Current regulation also aims to ensure that water is used for greater overall economic benefit by discouraging unproductive holding of water entitlements and allowing trade. Thus water regulation aims to address the market failures of *non-excludability* and *externalities*.

However there are significant gaps in the effectiveness with which current legislation addresses market failure. There are also *regulatory failures* in current arrangements, where government intervention is inefficient.

Western Australia's water legislation is some of the oldest in Australia and was originally developed at a time when demand was low and water was relatively abundant. Western Australia is now experiencing rapid population and industry growth. The six Acts were developed at various times to deal with specific water issues.

Reforms to improve water supply and water management gained impetus nationally from the 1994 Council of Australian Governments (COAG) Water Reform Framework, resulting in amendments to the *Rights in Water and Irrigation Act 1914* that were implemented in 2001.

Further reforms were considered from 2000 onwards at both the state level and through the development of the Intergovernmental Agreement on the National Water Initiative (NWI) at the COAG in 2004. The NWI promotes the COAG water agenda of economic efficiency and environmental protection. Western Australia became a signatory to the NWI on 6 April 2006. Many of the measures proposed or considered by this RIS to meet Western Australia's needs are also advocated by the NWI.

1.2 Issues

The following issues exist in Western Australia's current arrangements for regulating water resources.

Water shares should better reflect water availability

The current rigid and incomplete system for defining users' water shares is inflexible and thus imprecise in allowing shares to reflect actual water availability in the physical environment.

This means that it is difficult to protect the security of existing licensed volumes, except by allowing less total water to be available for use. This limits opportunities to make better use of water for the State.

It also makes it difficult to respond to shortfalls in water availability to meet existing licensed volumes in a way that shares the burden of this shortfall predictably and equitably.

Legal protection

If water shares can be more accurately defined to reflect the physical environment, they can also be given stronger legal certainty, which can reduce the perceived risk of

unforeseen government intervention. This increases the value of water entitlements to users and to the economy.

There is also less risk to government of having to provide compensation or financial assistance to users when water becomes less available, or of being seen as failing to protect users.

Use of markets and other regulatory advancements

When water is scarce, users and the economy both benefit when users' water shares can be sold to their highest value use. Current arrangements pose unnecessary barriers to water sales. There have been significant advancements in natural resources economics and regulation in Australia over the last few decades to permit water trading and deal with climate variability. These measures were not envisaged at the time of the design of Western Australia's current regulatory regime in the early 20th century.

Gaps in regime

Current regulation is now also inadequate to deal with more recently emerging water resource use and management practices, such as timber plantations and groundwater injection.

Inefficiencies

There are a large number of inefficiencies in current legislation that create unnecessary delays and costs for users and government.

2. Objectives

The regulation of water resources aims to:

- maximise the long term value (monetary and non-monetary) that water resources provide to the State; and
- provide for orderly, transparent, and fair use of water resources.

It does this by:

- clearly defining and enforcing all entitlements to available water;
- protecting the condition of the resource; and
- facilitating the use of water for productive purposes and the trade of entitlements.

A large number of shortcomings in existing regulation have been identified over the last decade. This RIS contends that these shortcomings substantially limit the potential effectiveness and efficiency of existing regulation in achieving the above objectives.

3. Options to Address the Issue

This document considers four options, each being a different combination of measures:

- Option 1 – No change
- Option 2 - Reforms to improve the clarity of water entitlements and management decisions and to reduce trading and licence processing costs
- Option 3 – More comprehensive reforms
- Option 4 – Deregulation of water use

3.1 Option one: no change

This option would mean that current legislative arrangements would continue. The key features of current arrangements are as follows:

Licence structure and transactions

- The approval of a user's water volume, works to take water and use of water are all part of a single licence. Licences must be amended whenever there is a trade.
- Every application for a new licence or trade must be fully assessed against all assessment criteria¹, irrespective of risk and the relevance of criteria.
- Water trade information is not published.
- Licences usually have a term of 10 years.
- All licence applications must be fully assessed even when no water is available.

Administrative water management rules

- Water allocation limits, water allocation plans and water trading rules are non-statutory (administrative only). The rules may be changed without consultation, impact assessment or Parliamentary oversight. Individual licensing decisions are not legally bound by these instruments (although licence conditions are legally binding, once imposed). Current allocation plans are advisory only.

Managing changes to water availability

- It is unclear whether users or government bear the risk of natural changes in water availability and any costs that arise.
- Temporary increases in water availability cannot readily be released for use.
- There is limited ability to temporarily or permanently reduce water allocations.
- Water cannot be released for use by auction or other competitive processes.

Scope of water volumes included in regulation

- Only large volume users are metered.
- There is no regulation of groundwater injections or of water use by plantations.

¹ Criteria are set out in Schedule 1, clause 7 of the *Rights in Water and Irrigation Act 1914*: ...the Minister is to have regard to all matters that the Minister considers relevant, including whether the proposed taking and use of water: (a) are in the public interest; or (b) are ecologically sustainable; or (c) are environmentally acceptable; or (d) may prejudice other current and future needs for water; or (e) would, in the opinion of the Minister, have a detrimental effect on another person; or (f) could be provided for by another source; or (g) are in keeping with: (i) local practices; or (ii) a relevant local by-law; or (iii) a plan approved under Part III Division 3D Subdivision 2; or (iv) relevant previous decisions of the Minister; or (h) are consistent with (i) land use planning instruments; or (ii) the requirements and policies of other government agencies; or (iii) any intergovernmental agreement or arrangement.

3.2 Option 2: Reforms to improve clarity of water entitlements and management decisions and reduce trading and licence processing costs.

This option is a set of measures that have been identified as having net advantages. Only some of these measures are interdependent, and different combinations of measures would be possible. They are combined as a single option to simplify their presentation.

Improved definition and exclusivity of entitlements

The following measures are proposed to improve the current regime's effectiveness in defining exclusive entitlements to water.

Maximum term increased: Regulations would specify that the maximum licensing term would be up to 40 years. The term assigned to a specific licence would reflect circumstances and the strength of water resources knowledge.

Metering and measurement: Metering would be phased in for all users of groundwater and of surface water systems with multiple users. Single-user surface water systems may not require meters but could use alternative systems of measurement, such as dam or pump capacity. Measurement or metering would also not be required where the risk to the water resource is minimal.

Reducing allocations: The total volume of water actually available from a resource in the long term is in some cases less the volume allocated for use. This situation can arise from improved information about actual water availability. There would be a power to reduce the allocations where allocations exceed the volume of water available.

Varying the take of water: The legislation would also provide the ability to adopt more responsive mechanisms for reducing the take of water during drier times and increasing the take during wetter times. For example, some water allocations could be issued only for use in wetter years, or there could be annual announcements of the volume of water available for use. The mechanism to be used would be defined under a statutory water allocation plan to reflect the circumstances of the specific resource.

Injections: Proposals to inject water into aquifers for storage and recovery at a later time are becoming more common. Legislation would allow the rights to recover this water to be protected and the impact on water resources to be regulated. Proposals to inject other fluids into aquifers would also be regulated.

Plantations: It may be necessary to regulate water interception by plantations where these have been shown to pose a high risk to the sustainable use of a water resource. Under option 2, regulations or a statutory water allocation plan would be able to require that a plantation's water use be approved before the plantation could be established.

Lower transaction costs

The following measures are proposed to reduce the transaction costs imposed on users and government by the regulatory regime.

Water access entitlement (WAE) framework: A WAE framework allows for perpetual and highly tradeable WAEs to be established where this is cost-effective.

WAEs are defined as shares of the *consumptive pool*: the total volume of water available for consumptive use. The size of the consumptive pool can vary over time to

reflect climate, environmental water requirements or other factors, so the entitlement can safely be made perpetual.

A WAE does not include approval to take and use the water (these approvals are obtained separately). As these approvals are separate, this allows the WAE to be traded without government approval.

WAEs would only be established by a statutory water allocation plan where their establishment provides a net benefit, that is, where there is high demand for water and thus for water trading.

Simplified licensing and trading assessment: Option 2 would allow licence applications and trades to be assessed only against those criteria relevant to the level of risk posed by the application or trade.²

Publication of trade information: Option 2 would require trade information to be made public, reducing the costs to users of obtaining market information.

Reduced perceived regulatory risk

The following measures are proposed to increase the certainty that individual licensing decisions would be made consistently with agreed rules:

Statutory water allocation plans: Statutory water allocation plans would be established in locations where there is high demand and competition for water. These plans would include allocation limits and other provisions including trading rules, provisions for allocation announcements, variations to allocations and environmental water. They require robust information and consultation and are a prerequisite for WAEs. Plans would be introduced gradually, and in the next few years would be produced only for a relatively small number of high priority locations where demand and risk for the resource are highest.

Statutory water allocation limits and trading rules: Where there is competition for a resource but no statutory plan is yet in place, it will still be possible to establish statutory allocation limits and statutory trading rules.

Statutory plans, allocation limits and trading rules can only be amended by a legal decision making processes.

Other impediments to economic efficiency

Risk assignment: Option 2 would clarify that water users bear the risk of shortfalls in water availability due to climate and natural events. Water users are best placed to take action to manage these risks to their businesses. If government were to bear these risks, users would have an incentive to take more risk and less incentive to take appropriate mitigation measures, resulting in inefficient investment by users. This approach to assigning risk is consistent with the risks faced by other businesses, such as dry land farming.

Competitive water release: Option 2 would provide government with the ability to release unallocated water by auction or other competitive processes. This offers the potential to help assign water to higher value uses. It would allow some of the water's value to be captured for the public, similar to when other public assets are sold or

² Currently, every application is assessed against all criteria set out in Schedule 1, clause 7 of the *Rights in Water and Irrigation Act 1914*, even when criteria are not relevant to the risk posed by the application.

transferred to private ownership or control. Competitive release can also provide a fair means of allocating water to new or existing users where there is no queue for the water, such as where additional water becomes available in a fully allocated resource.

Administrative improvements

Option 2 would consolidate, clarify and/or make consistent legislative provisions relating to:

- water quality
- environmental water provisions
- the ability to reserve water for public (i.e. town) water supply
- rules for protecting drinking water source quality (currently separate and different between country and metropolitan areas)
- rights to basic water for domestic use (currently different between surface water and groundwater)
- rules for drainage management (currently separate and different between country and metropolitan areas).

3.3 Option 3: More comprehensive reform

As part of the water reform discussion process, the associated consultation processes and the development of the National Water Initiative (NWI), two other reforms have been examined that could be implemented in addition to those in Option 2:

Statutory water allocation plans and WAEs established for whole of State

Option 2 proposes to implement statutory water allocation plans and WAEs in priority areas. A further measure could be to roll out statutory water allocation plans and WAEs for all resources across the State. Statutory plans and water access entitlements have been implemented across all resources in New South Wales and Queensland, but no in other jurisdictions.

Recovery of water resources management costs

All other states in Australia charge users for costs of administering licences. New South Wales and Victoria also charge for the broader costs of managing water resources, as agreed under the NWI. Currently in Western Australia, there are no charges for water licensing or water resource management.

The government has stated that it will not introduce new fees and charges for water licences. However, existing powers to levy charges will be carried over into new legislation.

3.4 Option 4: Deregulation of water use

Given that the existing system of regulation causes some regulatory inefficiency and risk, another option would be to deregulate water use. This would involve allowing water to be taken from rivers and groundwater without government approval.

4. Impact Analysis

4.1 Option 1 – business as usual

The main benefit of business as usual is that no change is required. It also offers significant benefits relative to unregulated use of water (option 4). However there are a number of inefficiencies in its operation and gaps in its ability to protect the entitlements of users and the environment in the long term.

Advantages

- No legislative changes are required.
- A greater number of users do not face metering costs.
- Plantations and groundwater injections are not regulated, therefore the costs of regulating these activities are avoided.

Disadvantages

- Water trades must be individually assessed in detail, increasing the time and costs involved for users and government.
- Licence applications are more onerous and renewals more frequent than necessary.
- All licence applications must be accepted and assessed, even in fully allocated and over-allocated resources where there is no more water available.
- Allocation limits are not statutory and may be changed without due legal process.
- There is not legal certainty that water licensing and trading decisions will be consistent with approved allocation limits and plans and approved trading rules.
- Because it is unclear whether users or government bear the risk of natural changes in water availability, the government's liability for compensation is unknown.
- Shortfalls in water availability may be borne unevenly, and thus disproportionately by some users or by the environment.
- Where demand for water is in excess of availability, the first-in-first-served system may not be a fair way to allocate any water that becomes available for release.
- Significant gaps exist in the completeness of managing all water use.
- Water allocation plans are guidance documents only.

4.2. Option 2 – reforms to improve clarity of water entitlements and management decisions and to reduce trading and licence processing costs

Option 2 is the proposed reform package, and thus is subject to the greatest scrutiny in this RIS. It focuses on improvements to effectiveness and efficiency of current regulation in correcting market failure and facilitating water trading. In general, the proposed changes to regulation do not impose significant compulsory expenditure on

users or government or impose transfers between parties. As a result, the reforms produce benefits for water users, the environment and the State at a low cost and low risk to all parties.

The impacts of the component measures of option 2 are examined in more detail at Attachment 1.

Advantages:

Option 2 provides a more robust framework for sustainable and economically efficient investment in water use and for the movement of water to higher value uses through the following mechanisms:

Correcting market failure: Without any regulation of water use to protect entitlements, valuable water uses that depend on more reliable resources would become less viable, reducing the total benefits obtained from water. The proposed legislative reform strengthens the correction of market failure provided by existing regulation, by closing gaps in the entitlement framework, including by more metering and by regulating plantations and aquifer recharge.

Reducing transaction costs: By making licence and trade processing more efficient, the costs of these to users and government are reduced. Attachment 1 discusses these efficiencies in more detail and indicates that they may be in the order of a few thousand hours of staff time per year.

The speed with which reforms will be rolled out across the state will be limited by the existing resources of the Department of Water for implementation, so reduced transaction costs to the Department will help reduce the timeframes associated with implementation.

Reduced regulatory risk: Statutory water allocation plans, allocation limits and trading rules provide greater legal certainty that decisions will be made in accordance with agreed rules. This provides a more favourable environment for those water uses that require more predictability: such as uses that require longer term, higher upfront investment.

Efficient assignment of risk: An unintended and inefficient consequence of existing regulation is that government may be liable for compensation if climate change results in water shortage. This gives water users an artificial incentive to assume water will continue to be available, resulting in poorer decisions. Reforms propose to clarify that users are liable for climate risk.

All the above are benefits in their own right, but together also provide a more robust environment for water trading. Water trading can bring substantial benefits, by directing water to higher value uses, and by mitigating the economic impact of water shortages and climate changes.

Scale of net benefits

While the low cost of the reforms means that their net benefits are positive and are likely to be significant, the actual size of benefits will vary substantially between each individual water resource, depending on future economic and climate circumstances, the investment decisions of water users, future emerging water demands and other factors.

MJA (2012)³ estimated the present value of the groundwater resources of the Gnangara Mound to be \$6.7 billion. Using a similar methodology to that used in MJA (2012), the present value of all water resources in Western Australia allocated for consumption could be estimated as being greater than \$35 billion. These figures should be treated as indicative, but suggest that reform would only need to produce a minor improvement in the economic value of water resources to justify action.

Part of the economic benefits of reform arise from facilitating water trading. Total water allocations in Western Australia are comparable in volume to the water use in the Southern Murray Darling Basin (sMDB) in the drought years of 2007-08 and 2008-09. NWC (2010)⁴ found that water trading in the sMDB in 2007-08 and 2008-09 resulted in production gains of \$1.05 billion and \$1.2 billion respectively⁵.

A primary objective of improved water resource management is to prevent resources being over-allocated and over-used and to recover water entitlements where systems are over-allocated. This could help avoid significant expenditure. The Commonwealth Government is spending \$3.1 billion to recoup over-allocated water entitlements in the Murray Darling Basin.

Disadvantages:

Generally, option 2 does not have significant disadvantages.

Costs to government of reform are minimal. Reforms will be implemented by the Department of Water as permitted by existing departmental resources, thus implementation of statutory water allocation plans and WAEs will be gradual. It is possible that some users may expect or demand faster implementation by government.

If spare capacity arises within the department, there is scope to invest this into faster implementation of reforms. The scope for faster implementation of reform will exceed and exploit any efficiency savings arising from lower processing costs for the department that result from reforms.

Approximately 15,000 users would face costs of installing meters (about \$4,000 each), phased in over the next five to ten years. Users of some higher value water resources would also face the time cost of understanding and participating in the conversion of water licences to WAEs if and when these are implemented in their area.

The Department of Water is already developing new information systems to better administer water management and licensing at a total cost of \$13.6 million. These systems are being designed to accommodate future potential reforms.

Unlike more comprehensive reform (option 3), water resource management costs would not be recovered from users.

4.3 Option 3 – further implementation of reform

The impact of the two additional measures examined as part of option three are discussed below.

³ Marsden Jacob Associates (2012), *Assessing the value of groundwater*

⁴ National Water Commission (2010), *The impacts of water trading in the southern Murray–Darling Basin: an economic, social and environmental assessment*

⁵ Note that this is only an illustration of the potential benefits of trade. Gains from trade in Western Australia would be only a fraction of those in the sMDB. Compared to the surface and groundwater resources of Western Australia, the surface water resources of the sMDB are substantially more concentrated and interconnected making them more tradeable, and have greater proximity to major towns and cities and to transportation infrastructure, increasing their value.

Statewide rollout of WAEs

Statewide rollout of WAEs offers the advantage of having a single, comprehensive management regime across the state, with low ongoing transaction costs and maximum trading flexibility for users. A single system of statutory water allocation plans and WAEs has been implemented across New South Wales. Queensland and Victoria have also implemented statutory planning and WAEs more broadly than is currently proposed by option 2.

However, unlike states in the Murray Darling Basin, the high costs of establishing a more comprehensive regime are not justified in Western Australia, where there are fewer high-risk, high competition resources. Furthermore, the New South Wales government's water management costs are borne by users, not by taxpayers so the costs of implementing WAEs in New South Wales were in large part funded by users.

Statewide rollout in Western Australia would require substantial additional resources. MJA (2007)⁶ found that the average costs to governments of implementing reforms to plans and entitlements in the Basin states was about \$9/ML (2013 dollars). This would equate to costs in the order of \$30 million based on water allocation volumes in Western Australia. This does not include the costs to users in time needed to understand and cooperate with implementation.

Much of the additional cost of statewide rollout would be incurred by creating costs of plans and WAEs in locations where they offer little benefit. It would not be feasible to implement statewide rollout of WAEs within the existing resources of the Department of Water. In any case, the proposed reform framework would allow fuller rollout of WAEs in future if circumstances for this become more favourable.

Water resource management charges

Recovery of costs from users offers the advantage of reducing the taxpayer burden of supporting the regulatory regime for commercial water use, and could provide price signals to guide efficient decisions by users.

The main impact of charges would be to transfer the costs of managing water from taxpayers to the beneficiaries of water use. In NSW where cost recovery is fully implemented, a groundwater user that takes half of their 100 ML entitlement will typically pay \$400-\$500 per year (or about one cent per kilolitre). The 2011 Economic Regulation Authority inquiry into water resource management and planning charges recommended that approximately \$28 million be recovered from users.

In addition to transferring costs to users, charges may result in a modest gain in the administrative efficiency by avoiding some inefficient transactions. However, the circumstances where price signals would improve efficiency are limited. For example, charges would provide price signals that reflect efficient costs of activities such as investigation and processing. This may influence users' decisions to apply for licences.

⁶ Marsden Jacob Associates (2007) *Experience and lessons in implementing water reform in Australia's eastern states: implications for Western Australia.*

Beyond these administrative efficiencies, the Department of Water would not expect that water resource management charges would result in substantial gains in economic efficiency through better resource use.⁷

4.4 Option 4 – unregulated water use

Full deregulation of water use would eliminate regulatory risk and transaction costs. However, it would have a substantial negative impact on the reliability of water use and on the long term condition of many water resources and their associated environments.

If users could take water without approval from any resource to which they could obtain legal and physical access, this would reduce compliance and regulation costs of users and government. There would be no risk to users of being affected by government decisions. Indeed it is possible that in areas of low water use and resource risk, the costs of regulation may outweigh benefits.

The disadvantage of a deregulated approach is that without clearly defined and exclusive rights to common pool resources such as water, users have greater incentive to use up water quickly and excessively in order to successfully compete with other users for the resource. This creates a bias against any higher value investment and/or longer term uses that may have greater benefits (including the environment).

Without any regulation of water use to protect entitlements, valuable water uses (including the environment) that depend on more reliable resources would become less viable, reducing the total benefits to society obtained from water.

Furthermore, it is possible under existing and proposed regulation to leave the water resources of a particular area of the state undeclared so that unregulated water use is possible, where the risks and impacts of water use are low. Thus much of the potential advantage of option 4 is also provided by the other options.

5. Consultation

Reform of water resources management in Western Australia has a history of ongoing community consultation, beginning in 2005.

The Water Reform Implementation Committee (the Committee) was established in September 2005, to provide advice to the Government on progressing water reform in Western Australia.

In preparing its final advice and recommendations to Government in the December 2006 report, *A Blueprint for Water Reform in Western Australia*, the Committee was required to consider the results of a community consultation program.

As part of the consultation process the Committee issued for public comment *A Draft Blueprint for Water Reform in Western Australia* including proposed water reforms. Seventy one written submissions were received in response to the draft report. The majority of submissions showed support for at least some of the proposed reforms,

⁷ When calculated on a volumetric basis, water resource management charges impose a low unit cost that would most likely only be significant in circumstances where there was little competition for low value water resources. This is in contrast to the efficiency gains could be expected from price signals that reflect the scarcity value of water such as trade prices or water release prices.

whilst a minority of respondents indicated that they did not see a need for water reforms at that time.

The consultation for the December 2006 report also included seventeen public workshops held around Western Australia. The aim of these workshops was to provide participants with sufficient information on the proposed reforms to enable them to express their opinions and suggestions on the topics within the draft report. Overall, the proposed reforms were well received by participants at the workshops.

Further consultation was undertaken with the release of the *Discussion Paper – Water resources management options* in November 2009. The three month consultation period included five workshops concluding with a workshop with the Minister for Water on 18 February 2010. Thirteen written submissions were received by stakeholders in relation to the discussion paper.

Following the release of the discussion paper, four workshops were held from 30 November to 9 December 2009 and involved representatives from various industry sectors, government agencies and interest groups. At the workshops, participants were asked to nominate their key issues and concerns with the proposed reforms in the discussion paper. Clarification on the operation and implementation of the proposed reforms was provided to participants at the workshop. A total of 33 people attended the stakeholder workshops.

The workshops were followed by a briefing from Department of Water officers to provide feedback on the stakeholder workshops and confirm the issues that would be considered at the Ministerial workshop.

Fifteen weeks after the release of the discussion paper, the Minister for Water met with invited stakeholders to respond to a number of key issues raised during the consultation process, and provide opinion on the proposed direction for the reform of the water resources management legislation.

As part of the consultation process, in May 2010, the Department of Water published the *Analysis of public comment, Discussion Paper – Water resource management options*. This report summarises the issues and comments made by the stakeholders at the workshops and in with the written submissions. The report also includes the Department of Water's response to stakeholders issues and comments. The main subject areas for which issues and concerns were raised in the consultation process included:

- Progress on the Water Resources Management Bill
- Cost recovery
- Security of public drinking water supplies in a consumptive pool regime
- Separation of land and water title
- Plantations and other interceptions
- Licensing and metering of farm dams
- Mine dewatering and special purpose licences
- Role of self-management groups
- Irrigation cooperatives
- Water allocation planning.

Prior to the release of the position paper: *Securing Western Australia's water future*, representatives from a wide range of industry, agriculture, mining and conservation

groups were consulted. Following Cabinet consideration, the position paper was released for public comment in September 2013. The position paper sets out a proposed legislative and policy framework for water resources management and takes into account the results of the previous community consultation regarding water reform.

A Water Resources Reform Reference group was established at this time to provide advice from organisations from the agriculture, mining, industry and conservation sectors on the development of water resource management legislation. An Interagency Reference Group was also formed to provide whole-of-government advice.

Stakeholders had the opportunity to make written submissions and provide feedback on the impacts of the various options and policy positions described in the position paper for a three month period ending 31 December 2013. Stakeholders were also encouraged to present additional feasible options not already considered in the position paper. Ninety eight written submissions were received.

In addition to providing written feedback on the proposed reforms, hotlines at the Department of Water were set up for stakeholders to call for clarification or further information.

During the public consultation period, the Department of Water held public and stakeholder meetings throughout Western Australia. An invitation to meet with the Department was extended to individual peak body groups to discuss the position paper. Over 25 meetings and community forums were held in regional and metro areas.

Overall, stakeholders were supportive of the proposed policy and legislative reforms in the position paper. Stakeholders requested additional information on how the policies will be implemented. This will be provided through written advice and further briefings.

However, some respondents opposed the implementation of specific proposals in their local areas. Matters opposed included the introduction of water access entitlements, metering and release of water through use of market based mechanisms, such as auctioning the release of water allocations.

While this opposition is understood, it will be explained that the proposed legislation will enable flexibility in where and how these proposals will be implemented. For example, water access entitlements and auctioning will not be introduced to most parts of the State. In areas where they are considered for introduction, community consultation will be conducted to determine if this is appropriate and how this will be done.

Some users are concerned that water allocations may be reduced in some circumstances and are advocating guaranteed minimum allocations. While this desire is understandable, the legislation should provide mechanisms to deal with situations where allocations exceed the amount of water available in a resource. Where there is insufficient water available, a guarantee would not create more water. In the long term, a guarantee may only deplete the water resource and/or trigger taxpayer-funded compensation.

Some submissions raised a number of other matters relating to water reform outside of the scope of the position paper, including fraccing, drainage management and the provision of water for public open space. These matters will require future policy or

legislative consideration and are not specifically addressed as part of this reform package.

The Department of Water is currently responding to the written submissions and providing further information on how the policies will be implemented. A statement of response, summarising the feedback and responses received during the consultation process and the Department of Water's response, will also be completed in March 2014.

The responses provided by the stakeholders were used to improve the policy position towards the finalisation of the drafting instructions for the water resource management legislation. Following completion of the draft legislation there will be a further period of public consultation prior to finalising the legislation.

6. Preferred Option

The preferred option is option 2: to introduce new water resources legislation to implement the proposed package of reforms that improve clarity of water entitlements and of management decisions and reduce trading and licence processing costs. As discussed in section 4, the key elements of this proposal are:

- Creation of a framework for water access entitlements: entitlements to shares of the resource that are separate from the approval to take and use the water
- The ability to create statutory water allocation plans, statutory allocation limits and statutory trading rules
- A maximum licence term of up to 40 years
- Phase-in of metering for most users
- A simpler mechanism for varying water availability to match seasonal conditions
- A power to reduce allocations where long-term water availability is exceeded
- Powers to regulate water use by plantations and groundwater injection
- Simplified assessment of licensing and trading
- Clarification of the assignment of risk
- An ability to release water through auction or other competitive process
- An ability to implement a moratorium on licence applications.

6.1 Basis for preferred option:

This option is supported because its measures result in the following benefits:

- Water entitlements will better reflect water availability, improving the long term protection of entitlements and of the resource.
- The cost of processing licences and trades is reduced.
- The risk of unforeseen government decisions is reduced.

- Climate risk is allocated more efficiently.
- There is an increased ability to trade water.

In turn, the above benefits lead to improved outcomes for the State:

- Water users are provided with a regulatory environment that is more conducive to optimal water use investments.
- Water can be better directed to its highest value uses, providing greater capacity to accommodate population growth and economic expansion.
- There is greater flexibility for water-dependant businesses to deal with climate variability and thus for the State to adjust to climate change.
- The contribution of water to the State economy is maximised.
- The condition of water resources and associated environments are maintained in the long term.

As the reforms would be implemented within existing resources, they do not impose significant additional costs to government. The government investments in upgrading information systems for water management that have already been funded are being designed to accommodate the reforms proposed in this RIS. However, upgrading of these systems would be needed to deliver licensing and other services more effectively and efficiently even under a business-as-usual scenario.

6.2 Legislative amendments required

The current regulatory framework for the governance of water resources in Western Australia is embodied primarily in the following legislation:

- *Rights in Water and Irrigation Act 1914*
- *Metropolitan Water Supply Sewerage and Drainage Act 1909*
- *Metropolitan Arterial Drainage Act 1982*
- *Country Areas Water Supply Act 1947*
- *Waterways Conservation Act 1976*
- *Water Agencies (Powers) Act 1984*

It is proposed to repeal and replace all of these acts with a single act. Existing subsidiary legislation would also be replaced by instruments under the new act.

7. Implementation and Evaluation Strategy

7.1 Implementation

Following passage of the bill, consultation on the development of subsidiary legislation will commence. It is expected that the Act will not be brought into effect until this subsidiary legislation is ready, allowing time for affected stakeholders to become familiar with the new legislation and the changes that it may allow to their business practices.

It should be noted that this is enabling legislation only, and in many cases there will be no changes affecting stakeholders at all.

To a large degree the legislation will be streamlining existing powers and obligations, rather than imposing new requirements or expanding the scope of regulation. In this regard the negative impact on water users is expected to be minimal.

Once the legislation is proclaimed, the individual components will be actioned in a staged manner across priority areas of the state – those where the water resources are under pressure and well-understood.

Stakeholder forums have been held to seek input into the legislative process and further forums will be used to communicate changes that will affect them. There will also be notices in local newspapers and regional forums to educate stakeholders.

As the current allocation plans are renewed, an assessment will be made as to whether there is a need for a statutory process and action taken accordingly. There will be significant stakeholder input into the decision and the resultant plan through local advisory groups established for this purpose.

There will be targeted forums in regional areas where changes are taking place to explain the opportunities to stakeholders. A series of workshops explaining water trading is currently being planned and will be rolled out in coming months.

Reforms will be implemented gradually within the limits of the existing resources of the Department of Water. Efficiencies resulting from reforms will assist the Department in balancing implementation costs and available resources.

The Department of Water is currently rolling out a new information services system to accommodate both existing information demands and the water management needs envisaged by the new legislation. It will also allow for a more streamlined approach to licensing and allocation planning and will save time for both departmental staff and water users.

The development of the system has a budget of \$13.6 million over four years commencing in 2012-13. Funding of \$1.6 million per year is approved through the State Budget. The remainder is to be funded through disposal of land held by the Department. The use of land sales proceeds for this purpose has been approved by Treasury.

7.2 Evaluation

There are several ways that the effectiveness of the changes will be evaluated.

Water allocation plans are currently evaluated annually. Changes are made as necessary and the plans are completely reviewed every seven to ten years, and this will continue to be the case. Allocation plans are public documents.

The following key performance indicators will be used in evaluating specific aspects of the legislative change:

- Average time taken to issue a licence (should fall);
- Average tenure of licence (should increase);
- Number of water trades (should increase);
- Number of metered licenses (should increase);
- Number of resources that are over-allocated (should decline); and

- Stakeholder satisfaction.

Legislation will be reviewed as required to ensure it continues to meet the needs of industry, government and consumers.

Certification

By certifying this form, you are agreeing that,

- this RIS has been prepared in compliance with the Western Australian Government's requirement for Regulatory Impact Assessment and to facilitate consultation and decision making effectively.
- to the best of your ability, all information provided within this document is true and correct.

	Certified By
Name	Warren Tierney
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Attachment 1

Water resource management reform: Impact analysis of specific proposed measures

Proposed measure	Impact Analysis	Additional Information on Costs or Benefits
Reduced transaction costs		
<p>Simplified licensing and trading</p> <p>Simplification of assessment criteria for licence transactions</p>	<p><i>Current situation:</i></p> <p>Under current legislation, full assessment is required of all applications for licence amendments, renewals and trades, regardless of the circumstances of each transaction.</p> <p><i>Proposed changes:</i></p> <p>The development of a risk-based assessment process, wherein the level of assessment is dependent on the degree of risk posed by the licence transaction.</p> <p><i>Implication:</i></p> <p>This measure will reduce transaction costs for users and the government.</p>	<p>The Department of Water (DoW) receives around 3,000 licence applications per year, around half of which are for renewals, amendments, trades or transfers of existing licences. The average processing time for these, using the full assessment process, is around 12.8 hours per application (over 19,000 hours per year).⁸</p> <p>If simplified assessment based on the level of risk can reduce processing times by 30 per cent, this would reduce total assessment time by 5,700 hours per year.</p> <p>Licence applicants benefit from reduced application times.</p>
<p>Increased transparency of trade information</p> <p>Water trade information will be published.</p>	<p><i>Current situation:</i></p> <p>Information on water trades is not publically available.</p> <p><i>Proposed changes:</i></p>	<p>The DoW is developing an information systems platform to enhance the accessibility of water information across divisions, including licensing,</p>

⁸ Assessment based on DoW submission to the 2011 ERA inquiry into water resource management charges, p40 - <http://www.erawa.com.au/economic-inquiries/completed-water-inquiries/water-resource-management-and-planning-charges>. The time estimates are actual time spent processing the application, based on a time-keeping data, and excludes time spent waiting on information from the licensee or other parties.

Proposed measure	Impact Analysis	Additional Information on Costs or Benefits
	<p>Water trade information will be published.</p> <p><i>Implication:</i></p> <p>The proposed changes help facilitate trade through improved information transparency. This will lead to more efficient investment decisions (increased economic efficiency).</p>	<p>allocation planning, water accounting and reporting. The program has a budget of \$13.6 million over four years. One component of this system is the Common Registry System (CRS) being developed by the COAG National Water Market System, which would facilitate the trading of water allocations and entitlements. However, it is uncertain as to whether the CRS will go ahead, and if the DoW is required to develop its own trading system, it is estimated that this would cost an additional \$5 million.</p>
<p>Introduction of water access entitlement framework</p> <p>Water access entitlements are a more detailed means of defining licenced water volumes to allow freer trade.</p>	<p><i>Current situation:</i></p> <p>Licensed water volumes are issued in the same licence instrument as the approval to take and use the water. Thus water can only be traded by the government approving amendments to both licenses and assessing the impact of the trade.</p> <p><i>Proposed changes:</i></p> <p>Water access entitlements (WAEs) would be established by statutory water allocation plans in areas with high potential for trade. The existing system of single licence instruments would remain in most areas of the State.</p> <p>WAEs are property rights to a share of a water resource that are perpetual, tradeable and can be mortgaged or</p>	<p>The costs of establishing water access entitlements (WAEs) would be part of, but would not add significantly to, the costs of developing the statutory water allocation plan for that area.</p> <p>As noted above, the new information platform being developed by the DoW may incorporate a trading registry system developed by the National Water Market. However, if the DoW is required to develop its own trading system, this would cost an estimated \$5 million – see “Increased transparency of trade information”</p>

Proposed measure	Impact Analysis	Additional Information on Costs or Benefits
	<p>bequeathed. They are calculated as a share of a consumptive pool, the aggregate volume of water available for consumptive use. The approval to take and use water is contained in a separate instrument.</p> <p><i>Implication:</i></p> <p>Trading is simpler and less costly (to users and government), so water is more easily directed to its highest value use. Consumptive pools reduce the costs of matching water use to available resources and reduce the costs and risks of over-use.</p> <p>Separation of approvals for works or site use from the rights to the volume of water allows the trading of water entitlements to higher value uses of the water, while providing for regulation of impacts at the site of water use. A WAE can be freely traded, but can only be used by a holder of an approval to take and use that water.</p>	<p>above.</p>
<p>Moratoriums</p> <p>A moratorium may be imposed on the assessment of applications to take water.</p>	<p><i>Current situation:</i></p> <p>New applications must be accepted and fully assessed even when the allocation limit for the resource has been reached/exceeded.</p> <p><i>Proposed changes:</i></p> <p>New legislation will enable the Minister to declare a moratorium on receiving applications for a licence to take water.</p> <p><i>Implication:</i></p> <p>This measure will reduce transaction costs for users and</p>	<p>Information on the allocation status of water resources will be published on the DoW website, alongside information on any moratoriums on applications for particular water sources.</p> <p>The additional costs of publishing this information would be negligible and would be within the DoW's current resources.</p>

Proposed measure	Impact Analysis	Additional Information on Costs or Benefits
	<p>the government, as it will prevent the receipt of applications or the processing of applications where a water resource is fully allocated. It will provide government with an additional tool to manage resources that are (or close to being) fully allocated.</p> <p>It will also increase long term certainty for users, as a moratorium will prevent the risk that new licences will be granted for water resources that are near or fully allocated (for a specified period of time). This will assist in providing confidence to existing users of the long term sustainability of the resource.</p>	

Proposed measure	Impact Analysis	Additional Information on Costs or Benefits
<i>Measures to reduce perceived regulatory risk</i>		
<p>Introduction of statutory allocation limits</p> <p>Statutory allocation limits can be set, based on the level of water that can sustainably be allocated. They can be set within or outside of statutory allocation plans.</p>	<p><i>Current situation:</i></p> <p>Allocation limits are not statutory and are set through policy.</p> <p><i>Proposed changes:</i></p> <p>Statutory allocation limits (set by the Minister) can only be amended following a transparent process, developed through consultation and prescribed in regulations.</p> <p><i>Implication:</i></p> <p>Statutory instruments reduce the risk of unpredictable <i>ad hoc</i> government intervention. Statutory allocation limits provide more secure definition of water users' entitlements and can facilitate water trading within the statutory limit. They reduce the risks and costs of over-use. They can provide a lower cost or interim mechanism for managing highly allocated water resources where a full statutory allocation plan is not in place.</p>	
<p>Introduction of statutory water allocation plans</p> <p>Statutory water allocation plans would be introduced in areas where high levels of water resource management are required.</p>	<p><i>Current situation:</i></p> <p>Allocation plans are currently non-statutory and administrative instruments only.</p> <p><i>Proposed changes:</i></p> <p>Statutory water allocation plans would be introduced in areas where there are high levels of risk to water resources, users or the environment, and in consultation with water users and stakeholders.</p>	<p>There would be no significant increase in water resource management costs, as statutory water allocation plans would be introduced in areas where allocation planning is already well progressed.</p> <p>In the DoW Annual Report 2012-13, the average cost per allocation plan completed is \$1.777 million. The cost of converting an existing allocation plan</p>

Proposed measure	Impact Analysis	Additional Information on Costs or Benefits
	<p><i>Implication:</i></p> <p>Once introduced, statutory water allocation plans will increase transparency about water allocation decisions, and reduce the costs and complexity of water trading and matching water use to available resources.</p>	<p>into a statutory allocation plan would be similar to the costs of updating an existing plan.</p>
<p>Introduction of statutory trading rules</p> <p>Regulations would be able to set rules for water trading.</p>	<p><i>Current situation:</i></p> <p>Trading rules are currently non-statutory.</p> <p><i>Proposed changes:</i></p> <p>Generic, state-wide trading rules would be established. Statutory plans could also establish local trading rules</p> <p><i>Implication:</i></p> <p>Statutory trading rules will provide greater legal certainty to users and help to facilitate water trading.</p>	
<p>Licence tenure</p> <p>The term of tenure assigned to a particular licence will reflect specific or individual circumstances such as business activity undertaken, eligibility to hold a licence and the capacity of the resource.</p>	<p><i>Current situation:</i></p> <p>Current practice is for the Department of Water to issue renewable licences for a term of up to 10 years.</p> <p><i>Proposed changes:</i></p> <p>To retain the current legislative provision that leaves licence tenure undefined, but to include (in the regulations) an extension of the term of a licence up to 40 years.</p> <p><i>Implication:</i></p> <p>An extension in licence tenure will reduce transaction costs (for users and the government), provide greater certainty to users and remove the current bias towards short term</p>	<p>The Department of Water currently receives around 750 applications for licence renewals per year.</p> <p>Extending licence terms to up to 40 years, from the current term of 10 years, would reduce the number of applications for licence renewals received by the department.</p>

Proposed measure	Impact Analysis	Additional Information on Costs or Benefits
	investment decisions. This will lead to a more efficient allocation of resources (improved economic efficiency).	

Proposed measure	Impact Analysis	Additional Information on Costs or Benefits
<i>Licence volumes defined more exclusively and precisely to address market failure</i>		
<p>Measurement including metering</p> <p>Metering requirements would increase, with the installation of meters to be staged over a period of time.</p>	<p><i>Current situation:</i></p> <p>Current policy requires licensees to meter their water extraction if their annual allocation is greater than 500 megalitres per annum.</p> <p><i>Proposed changes:</i></p> <p>Amendment of the current policy to require metering for all groundwater systems and for multi-user surface water systems (rivers and dams), except where there is no benefit to doing so. This requirement will be phased in from two to five years, depending on the licence allocation amount and whether it is a single or multi-user licence.</p> <p><i>Implication:</i></p> <p>Metering is a fundamental component of ensuring the exclusivity of users water allocation volumes and of ensuring fair sharing of water.</p> <p>Metering is a pre-requisite for trade. Therefore, in conjunction with other reform measures, the proposed changes to metering requirements will facilitate trade in water entitlements.</p> <p>The key benefit of increased metering requirements is reflected in the value of the water that is saved through reductions in over-abstraction.</p>	<p>MJA (2012) identified that the benefit/cost ratio of metering in the Gngangara Pilot Metering Project was 1.8.</p> <p>Users will incur the cost of meter installation and subsequent maintenance costs. The average cost of a meter installed on the Gngangara Mound (Gngangara Pilot Metering Project) was \$3,673.</p> <p>The number of new meters required is estimated at between 9,000 and 14,000 over the long run. Meters would be introduced gradually and to priority (high risk) areas first. In areas of low risk (in terms of the level of water allocations and environmental sensitivity) it is possible that licensees could be exempted from metering.</p>
<p>Variation of existing licenced water</p>	<p><i>Current situation:</i></p> <p>Water licences have a fixed annual volume. Existing power</p>	

Proposed measure	Impact Analysis	Additional Information on Costs or Benefits
<p>allocations</p> <p>Licensed water allocations may be varied to match water use with water availability.</p>	<p>to temporarily reduce allocations is cumbersome. There is no power to increase allocations.</p> <p><i>Proposed changes:</i></p> <p>Develop transparent rules and processes to allow water entitlements to be decreased or increased on a seasonal basis, depending on water availability.</p> <p><i>Implication:</i></p> <p>Matching water use more closely to water availability reduces the risk of over-use and associated costs when water is scarce and increases the productive use of water when it is plentiful. The administrative costs of adjusting usage to match available water are reduced.</p>	
<p>Recovering over-allocated resources</p> <p>In over-allocated resources where the level of abstraction is not sustainable, there will be a process to reduce entitlement volumes to match the statutory allocation limit.</p>	<p><i>Current situation:</i></p> <p>Existing legal mechanisms to address over-allocation are cumbersome.</p> <p><i>Proposed changes:</i></p> <p>A process will be developed for returning over-allocated water resources to the allocation limit. This will be established through the adoption of a statutory allocation limit which will set a cap on the total volume of water entitlements that can be allocated within a resource.</p> <p>The specific methodology for recovering over-allocated systems will be developed through a consultative process in the development of statutory water allocation plans and/or statutory allocation limits for each resource.</p>	<p>There are around 90 over-allocated groundwater resources in WA (out of a total of approximately 770 groundwater resources). However, the actual number of <i>high risk</i> over-allocated resources has not yet been determined but it is less than 90. It is anticipated that the Department of Water will undertake further work to assess the risk status of over-allocated resources.</p>

Proposed measure	Impact Analysis	Additional Information on Costs or Benefits
	<p><i>Implication:</i></p> <p>Entitlement reductions would only be sought in relation to over-allocated resources that are at high risk (in the context of risk to the environment and existing users). It is likely that any entitlement cuts would be phased in.</p> <p>This measure will benefit both consumptive and non-consumptive users as it will improve the sustainability of a water resource and its dependent ecosystems (i.e. wetlands). It will also increase longer term certainty for users, leading to increased economic efficiency through better investment decisions.</p>	
<i>Other measures to address inefficiency caused by regulation</i>		
<p>Allocation mechanism for the release of unallocated water</p> <p>Ability to release unallocated water by means other than first-in-first-served.</p>	<p><i>Current situation:</i></p> <p>Currently, licensed water entitlements are allocated up to the allocation limit. Applications to take water from a particular water resource are currently assessed in the order in which they are received (first-in-first-served).</p> <p><i>Proposed changes:</i></p> <p>The development of legislative provisions to allow unallocated water to be granted by several mechanisms, including first-in-first-served, competitive submission, market mechanisms or other suitable means. Local advisory groups would play a role in determining suitable mechanisms of release.</p> <p>The method of releasing unallocated water will vary across the state, taking into account the resource characteristics,</p>	

Proposed measure	Impact Analysis	Additional Information on Costs or Benefits
	<p>the level of demand, and community and industry requirements.</p> <p><i>Implication:</i></p> <p>In water resources that are fully allocated, the use of market mechanisms will help enable water to be reallocated to the highest value use. It is possible that path-dependent investment in lower value uses may be reduced, leading to greater dynamic efficiency.</p> <p>Water can sometimes become available in a fully allocated resource, for example where new information arises. Competitive mechanisms can be a fairer way of allocating limited water in high demand than a first-in-first served.</p>	
<p>Risk assignment framework and compensation</p> <p>Clarity will be provided on which entity bears the risk of permanent entitlement reductions (i.e. the government or the user).</p>	<p><i>Current situation:</i></p> <p>At present, government is liable to pay compensation where entitlements are reduced permanently, unless the reductions are ‘fair and reasonable’ in respect to other licence holders in the area. This legal capacity is untested. Therefore, the Government may be liable for permanent cuts that are made due to reasons outside its control, including climate change.</p> <p><i>Proposed changes:</i></p> <p>New risk assignment provisions will be included in the legislation, specifying that the risk of permanent cuts to the entitlement is borne by the water user rather than the government if the cut is solely due to climate or natural events. If the cuts are not solely due to climate or natural events, the risks could be shared between government and</p>	

Proposed measure	Impact Analysis	Additional Information on Costs or Benefits
	<p>water users.</p> <p>Where the government bears the risk, for example, through a change in government policy, compensation is payable unless cuts to water entitlements are fair and reasonable.</p> <p>The proposed provision will not provide for a risk assignment formula but will require a statutory water allocation plan to incorporate a risk assignment formula pertinent to the water resource consumptive pool (covered by the statutory plan).</p> <p><i>Implication:</i></p> <p>The clarification of risk assignment will reduce regulatory risk and provide greater legal certainty for users, thereby leading to more efficient investment decisions.</p> <p>This measure will improve the efficiency of risk management, as risks are more efficiently managed by the entity that is best placed to manage the risk; i.e. the entity that would bear most of the financial burden, should the risk eventuate, has the greatest incentive to manage the risk. In this case, the risk is more appropriately borne by users. If government were to bear climate risk, users would have less incentive to take efficient mitigation measures.</p> <p>This measure is also likely to reduce the government's (potential) liability for future compensation payouts.</p>	
Clarification and consolidation		

Proposed measure	Impact Analysis	Additional Information on Costs or Benefits
<p>Local advisory groups</p> <p>The legislative capacity to introduce local water resource management committees, local advisory groups and an independent advisory body to provide advice to the Minister on water issues will be retained.</p>	<p><i>Current situation:</i></p> <p>The current legislation provides for the capacity to establish local water resource management committees, voluntary local advisory groups and an independent advisory body to provide advice to the Minister on water issues.</p> <p><i>Proposed changes:</i></p> <p>Current legislative provisions to be retained.</p> <p><i>Implication:</i></p> <p>No change from the current situation.</p>	
<p>Environmental water provisions</p> <p>Consolidation of existing provisions</p>	<p><i>Current situation:</i></p> <p>The provisions governing water for the environment are spread across several pieces of legislation.</p> <p><i>Proposed changes:</i></p> <p>The proposed changes would consolidate existing provisions and make it explicit that provision is to be made for environmental water in water resource management, where appropriate. The criteria that will be used to determine environmental water provisions will be set out in regulations or statutory water allocation plans.</p> <p><i>Implication:</i></p> <p>This measure will improve the clarity of existing legislation, thereby ensuring that environmental water provisions are more transparent.</p>	
<p>Water quality provisions</p>	<p><i>Current situation:</i></p>	

Proposed measure	Impact Analysis	Additional Information on Costs or Benefits
Consolidation of existing provisions	<p>Current rules on water quality are spread over several pieces of legislation.</p> <p><i>Proposed changes:</i></p> <p>To consolidate existing provisions and make it explicit that water quality requirements are to be taken into account in all applicable decision-making processes.</p> <p><i>Implication:</i></p> <p>Consolidation of the existing provisions will enable users (and other stakeholders) to identify water quality information more easily, thereby reducing transaction costs.</p>	
<p>Basic water</p> <p>Basic rights to water (water for stock and basic needs, including traditional purposes for native title holders) will be made consistent for surface water and groundwater.</p>	<p><i>Current situation:</i></p> <p>Basic rights to surface water are broader than basic rights to groundwater.</p> <p><i>Proposed changes:</i></p> <p>Basic rights to surface water and groundwater would be made consistent.</p> <p><i>Implication:</i></p> <p>This provision will remove inconsistencies in the legislation at no additional cost. Existing users will not be disadvantaged.</p>	
<p>Protection and management of public drinking water sources</p> <p>The legislation will provide</p>	<p><i>Current situation:</i></p> <p>Public drinking water sources are protected through a number of Acts, with urban sources better protected than country sources.</p>	

Proposed measure	Impact Analysis	Additional Information on Costs or Benefits
<p>a uniform framework for the protection of public drinking water sources in urban and rural areas.</p>	<p><i>Proposed changes:</i></p> <p>Existing legislation will be consolidated into a single framework for the protection of public drinking water sources across the state. Penalties for degrading water in water source protection areas will be increased. Public drinking water source area reports will be prepared. The Minister will be able to declare temporary public drinking water source areas if this is in the public interest.</p> <p><i>Implication:</i></p> <p>Consolidation of legislation and public reporting improves the clarity and transparency around public drinking water source protection decisions. Increased penalties reduce the risk and associated costs of contamination of groundwater sources. Temporary protection of a water source area may in some cases be the least cost option for providing public water supply.</p>	
<p>Protection and management of public water supply</p> <p>The government will continue to protect and manage the public water supply.</p>	<p><i>Current situation:</i></p> <p>Current legislation provides that sustainable management of water resources includes accounting for use and development for domestic purposes.</p> <p><i>Proposed changes:</i></p> <p>Legislation will enable specification of a purpose for allocated water, assigning of a priority for a purpose and for the setting of a performance measure.</p> <p><i>Implication:</i></p> <p>This will provide greater certainty to all stakeholders in</p>	

Proposed measure	Impact Analysis	Additional Information on Costs or Benefits
	regard to the adequacy of future public water supply provisions.	
<p>Process for declaring areas</p> <p>Simplify the process for declaring areas in which surface water and groundwater use are regulated</p>	<p><i>Current situation:</i></p> <p>An area must be proclaimed before licences can be issued. The current approach to the proclamation of surface water and groundwater resources requires the approval of the Governor (and the Minister).</p> <p><i>Proposed changes:</i></p> <p>To substitute the need for proclamation with a simpler requirement (with a less cumbersome approval process). For example, it could be replaced with a Ministerial order, which only requires the approval of the Minister.</p> <p><i>Implication:</i></p> <p>This measure will lead to reduced transaction costs for users (i.e. through a reduction in the approval timeframe).</p>	<p>Proclamation of a surface water or groundwater resource by Ministerial order would avoid the need to prepare an Executive Council submission to request the approval of the Governor. This could reduce the approval time for a proclamation by 1-2 months.</p>
<p>Compliance and enforcement</p> <p>Provide clear rules on offences and connected penalties, and ensure that these provide sufficient deterrent to breaches.</p>	<p><i>Current situation:</i></p> <p>Current offences and penalties are out-dated and not applied uniformly to surface water and groundwater resources. Penalty amounts are not uniform with similar offences throughout the RIWI Act nor are they consistent with other WA legislation, including environmental legislation or water legislation in other jurisdictions.</p> <p><i>Proposed changes:</i></p> <p>It is proposed to ensure that that all appropriate offences are included in the legislation and penalties are a sufficient</p>	

Proposed measure	Impact Analysis	Additional Information on Costs or Benefits
	<p>deterrent to breaches of the legislation.</p> <p><i>Implication:</i></p> <p>This measure will improve the clarity and consistency of existing legislation. Setting penalties at a level that reduces the risk of non-compliance with licence conditions (such as allocation limits) will reduce risks to water resources, other users and the environment.</p>	
<p>Drainage</p> <p>Existing legislation on drainage management will be consolidated to provide a uniform framework that will apply to urban and regional areas.</p>	<p><i>Current situation:</i></p> <p>Drainage management rules are contained in several Acts and differ for rural and urban areas.</p> <p><i>Proposed changes:</i></p> <p>A single uniform framework will be developed to clarify drainage management objectives. Provisions for drainage and water management plans and declaration of drainage courses will assist development processes.</p> <p><i>Implication:</i></p> <p>Clarity and consistency in drainage management objectives and consideration of drainage issues early in development processes will improve drainage and development outcomes.</p>	
<p>Injections</p> <p>The legislation will provide for the regulation of injections into aquifers.</p>	<p><i>Current situation:</i></p> <p>Legislation regulates the taking of water only, not injection of water into water sources. Injections can only be regulated where there is an identified risk to water</p>	

Proposed measure	Impact Analysis	Additional Information on Costs or Benefits
	<p>resources, users or the environment.</p> <p><i>Proposed changes:</i></p> <p>The legislation will be amended to provide for the regulation of injection of water or fluids into or through aquifers, for managed aquifer recharge, geothermal energy and other activities. The new legislation will provide a regulatory framework for new types of water resource management activities, involving injections into aquifers, that are not accommodated by the current legislation.</p> <p><i>Implication:</i></p> <p>This provides clarity and security to water users and encourages the use of such technologies where they are beneficial to water resource management.</p>	
<p>Interception by plantations</p> <p>The legislation will provide for water interception by plantations to be considered in the development of statutory water allocation plans or statutory allocation limits.</p>	<p><i>Current situation:</i></p> <p>Interception of water by plantations can impact on water resources, other users and the environment, but is not regulated.</p> <p><i>Proposed changes:</i></p> <p>The legislation will include provisions for the impacts of plantations to be taken into account in statutory plans and allocation limits. Operational policies will be developed following consultation to determine situations where regulation of interceptions by plantations is appropriate.</p> <p><i>Implication:</i></p> <p>The legislation will provide management tools for situations where plantations have material impacts on water</p>	

Proposed measure	Impact Analysis	Additional Information on Costs or Benefits
	resources, users or the environment.	