

Conclusion of the Land and Water Forum

Last week the third and final report of the Land and Water Forum was released, completing four years of concentrated negotiation on a new freshwater management regime for New Zealand.

The final report of three goes further into the detail than the first two reports, focusing in particular on managing water quality and allocating water. These have been the most contentious areas of discussion.

The reports balance many interests, and no party wins outright. Having made that point, the horticulture industry may obtain advantages from the new allocation framework, and is well prepared for the quality management framework. Many sectors have fared worse.

To date, the only parties to withdraw support for the recommendations of the Land and Water Forum are Watercare, Trustpower and the combined forestry interests.

Summary of the reports and what they cover

Report One released in September 2010 provided 53 broad recommendations on establishing a national framework for freshwater management. Key points were;

- The establishment of consensus around the content of a National Policy Statement, allowing the government to develop the regulation that will guide the development of the freshwater management system.
- Deconstruction of the framework into separate streams of work, focusing on;
 - Governance;
 - Setting limits;
 - Managing water allocation;
 - Managing water quality;
 - Strategy.
- The report basically established the nature of the work program going forward.

Following the receipt of the first report, Government invited the Land and Water Forum to reconvene under the various work streams established above to progress development of the framework.

Report Two released in April 2012 provided 38 recommendations, primarily on the first two work streams around Governance and a new process to set limits for all waterbodies, both for quality and for quantity. Key parts of the report included;

- A new "Collaborative Process" for water planning as an alternative to the existing process outlined in the first schedule of the RMA.
 - The new process is not a replacement for the existing process.

- It places emphasis on early engagement between all parties in a forum such as the Land and Water Forum pioneered.
- The alternative process removes some rights of appeal on merits.
- Because the removal of rights was not even across interests¹, Horticulture New Zealand did not agree that particular point.
- The objection was sustained until the end of the process.
- Introduction of the concept of "bottom lines", and a process to set these bottom lines and limits.
 - Limits would be established for some contaminants at the national level in bands, with a "poor" result in any water body requiring remediation to above the standard of "poor".²
 - Bands established include poor, fair, good and excellent.
 - Above poor, the local community gets to decide where they wish to set their water quality and quantity limits, as long as the overall water quality within the water management zone is not diminished from present state.
 - A process was established to apply for "exceptions" in extreme cases.
 - In cases where upgrade above "poor" state is required, transition time frames are provided for, among other material things of note.

Report 3 provided 67 recommendations on the remaining three topics including managing quality, allocation (including a detailed best practice allocation framework) and production of a freshwater management strategy for New Zealand.

- With respect to national strategy, it was considered the three reports provide direction enough, as long as there was a central information portal established and a means of continuing national dialogue.
- With respect to water allocation, a new framework of rights and interests was developed;
 - It is hoped the framework will be given effect by a regulatory tool to ensure that water allocation is managed in a consistent way across country.
 - Significant changes are signalled to the nature of rights and interests and permits. Some of these recommendations address issues encountered by Horticulture New Zealand through Waikato's water allocation plan changes.
 - Recommendations were made to encourage the establishment of voluntary markets without compulsion.

¹ The process suggested that parties that could demonstrate they were a "national interest" would retain the rights to appeal on merit, whereas others would not. This would have favoured large industries such as the power generation sector and Fonterra over the rights of horticulturalists, unless they could prove their business interests were in the national interest.

² Recommendations on national bottom lines were established through a process involving a small think tank, including Horticulture New Zealand (The National Objectives Framework) supported by extensive science from combined CRI's across the country.

- The nature of iwi rights and interests was established and recommendations regarding recognition of all rights and interests were provided by the forum to Government.
- Charges, taxes, rentals and royalties were examined and while some charges were considered appropriate, no recommendations were carried forward regarding the other three categories of taxation.
- With respect to water quality management, a framework for managing within limits was established;
 - A preferred approach was established to managing water quality outcomes.
 - Audited Self-Management³ and Good Management Practices established by industry were recommended as the primary tool to manage water quality issues within catchments.
 - No recommendation was made regarding the system to allocate nutrient discharge allowances to properties, although it was recognised that nutrient allocation may be required in some cases.
 - Recommendations regarding models such as Overseer reflected a lack of trust in their readiness for use as a regulatory tool, but recommended they were supported as the most appropriate approach to measure and therefore manage use of nutrients.

The discussion on iwi rights and interests infuses each report. Significant recognition has been given to iwi rights and interests; through enhanced participation in the governance and management of water. The issue of ownership has not been agreed.

A strong challenge by iwi interests for an "equitable allocation proportion" to recognise Treaty commitments did not result in consensus. However, the Forum did recognise that iwi have rights and interests in water. The forum also recognised these rights and interests needed to be addressed by the Crown.

Other parties obtained recognition for their rights and interests, particularly through agreement that the redress of iwi rights and interests should not be done at the expense of other interests.

Taxation and charging proposals were averted as were many calls for compulsory freshwater market that would have disadvantaged commercial users of water significantly. It is noteworthy that no recommendations exist on resource rentals or taxation of water.

The commitments made to managing within limits, are significant changes for the primary sector that may take some time getting used to. However the system established to manage within limits is far preferable to the one that has been mandated by the Environment Court in the Horizons Region.

³ Including systems like NZGAP, containing a range of good management practice.

The process from here starts with officials. Over 100 have already been assembled from various government departments to give effect to the recommendations of the Land and Water Forum. Government hopes to have recommendations included in other revisions of the Resource Management Act due to enter Parliament in March 2013. The horticulture industry should encourage adoption of the whole package with some minor exceptions, to ensure the reforms survive a change in government.

There is **still significant room for progress** around other elements of the RMA reform process that will enhance the results achieved in the Land and Water Forum. These include proposed changes to section 6 and 7 of the RMA, proposals for local government reform and regional implementation of the National policy statement for freshwater management.