

The Land and Water Forum

Making progress

Address at the EDS Conference, 2 June 2010

What is the Land and Water Forum?

We talked about the Land and Water Forum at the last EDF conference when Hon Nick Smith announced Government funding and support for its current project but to make sure we are all on the same page, I'll begin with some facts. The LWF is a body of now 58 organisations that hold a stake in issues relating to land and water and the way they interact. As its first task it is undertaking a project, *A fresh look at fresh water*, which is central to the Government's water programme. Government has provided a small budget to help.

It is an example of "collective governance" – addressing complex and intractable issues by bringing together the principal stakeholders, including from the private sector and civil society, to seek agreement/consensus on a way forward. Most usually it has been used to deal with local issues, including in New Zealand, and has run over long time frames. When practiced at the national level – and there are recent Scandinavian examples which Guy Salmon reported on at Conflict in Paradise mark 1 – governments are normally involved in the process, and political parties may be. For this process to succeed in New Zealand on water, I believe that it is also necessary that iwi should be involved. In the Land and Water Forum they are.

The Forum consists of a Plenary – everybody – and a so called Small Group which does the heavy lifting. The Small Group's membership is a distillation, if you like, of the Plenary's, and it's a who's who of main players in water in New Zealand.

- Primary industry: Fonterra, Dairy NZ, Federated Farmers, M&WENZ, NZ Forest Owners, Horticulture NZ and Irrigation NZ
- Iwi: Ngati Tuwharetoa, Whanganui, Tainui Waikato, Ngai Tahu and Te Arawa
- Recreational and environmental groups: Fish and Game, Forest and Bird, Ecologic, Environmental Defence Society, Whitewater NZ
- Tourism: Tourism Industry Association
- Electricity generators: MRP, Meridian
- Water New Zealand (which was host to the Turnbull Group).

Senior officials (and 1 mayor) from central and local government are involved in the small group as "active observers" to provide information including on policies and initiatives central and local government are taking.

Its mandate which came initially from the Forum itself but was modified and endorsed by Ministers – is to

- conduct a stakeholder-led collaborative governance process to recommend potential reform of New Zealand's fresh water management, and
- using a consensus process, identify shared outcomes and goals for fresh water
- and options to achieve them.

The Forum must report to Government by the end of August. Its recommendations are not binding on the Government; but it is my belief that if a body of this weight is able to reach a consensus around these issues, any government is likely to find its recommendations pretty interesting.

Why did the Forum happen?

The Forum occurred because we are aware as never before of the importance of water as a strategic asset, and of the condition of our rivers, lakes, wetlands and our groundwater. Partly that is because we are aware of the impact of water shortages globally, including under the pressures of population growth, economic development and climate change.

In fact, we are very fortunate – we have a wealth of freshwater here, some of it of a very high quality. But as land use intensifies – and it is intensifying faster than in most other countries in the OECD – we know we are reaching limits in some parts of New Zealand, shown by deteriorating water quality, water shortages, and constraints on our economic opportunities. And the problem is not only one about land use. Point source discharges have improved since the RMA was passed but are still a serious contributor. We know that water systems are complex and interdependent and we don't fully understand all of them well enough. We do know that change in water bodies can be non-linear and that it can have long lags.

What we do or do not do about our freshwater in New Zealand impacts both on our standard of living and our quality of life.

- It is vital to our economy and also to the heritage that we leave our children.
- And round our brand, which is based on the unspoiled nature of this country – a brand which is vital for tourism and increasingly for the sale of our agricultural products in overseas markets – our economic interests and our environmental ones coalesce.

Teresa Gattung was right when she said at this conference a year ago that it was a false dichotomy to separate them out.

Ali Memon made the point the other day that water reform in New Zealand seems to have been going in roughly 20 year cycles – from the 1967 Water and Soil Conservation Act to the RMA in 1991 to the Freshwater initiatives of the early part of the 21st century of which we are, I hope, a crowning part. The RMA has many strengths, but for a variety of reasons, transactions carried out under it frequently have become highly adversarial. The Land and Water Forum is time consuming but for many of the participants the time they spend

so generously in this process falls into insignificance by comparison with the months they have spent, and continue to spend, in hearings before Councils and Commissions and in the Courts - often for little certainty at the end of the business.

What has the Forum been doing?

The short answer is two important things.

- First, this group of very powerful stakeholders on water hammered out agreement among its members and with the Government on the nature of its task, and on how it will address it
- Second, it has made an excellent start on the substantive work and it is about half-way through its decision-making phase.

I'll expand on those two points. First, establishment.

The Forum was mooted at the EDS conference in 2008. When it actually began to meet, it became clear that while in principle everyone was prepared to collaborate, they had not decided exactly what they would collaborate to do, and they weren't sure how they wanted to go about doing it. In December 2008, when I was asked to become the chair, the Small Group was set up to build trust and to find a way forward. By June 09 we had agreed rules of engagement, a concept document, and a broad brush project plan. Iwi had defined the space in which they would be comfortable to participate. Cabinet had agreed to support and to fund.

It is not surprising that this trust-building phase was necessary. Some participants were at daggers drawn over water quality (Fonterra and Fish and Game over "Dirty Dairying" for example). Many were habitually on opposing sides in consent hearings and the Environment Court. Iwi were hesitant to join in a process which might complicate their negotiations with the Crown. Others were afraid of iwi double dipping. Large industries feared that NGOs had no skin in the game.

The surprising thing – with hindsight – is that people moved beyond their original distrust so quickly and started to realise how much they might be able to agree about. And also recognised what a powerful instrument agreement forged in a group like this could be – not just in New Zealand but also beyond it. You will recall that when following the 1991 Forest Accord there were difficulties over the terms of access of New Zealand Pinus Radiata to Japan, environmental NGOs joined the industry in a NZ Inc approach to the Japanese Government, which was ultimately successful.

Before Christmas, we completed the first phase of our substantive work in which each sector described its long term economic, social, cultural and environmental goals and strategies, and the implications these have for its use of water. This specific knowledge about what the different enterprises want, and how they are managing their water needs, and with what results, is the platform for the second phase.

Now, in the second phase, we are working through an agenda to determine what we can recommend in the inextricably connected issues of quality, quantity and governance. I say quantity for the sake of alliteration, but what I mean of course is the range of issues around flows and how they are allocated, including the question of so-called “new water”, which you might derive from the more efficient use of the old, and which you might also derive from storage.

Where are the Forum heading?

I’m going to say something visionary and something practical on this topic.

Some people say that to succeed in this kind of complex venture you need a vision. I think that Colin James supplied us with the raw material for one, in the form of a set of bullet points which he circulated at the last session of the first phase of the work, which he facilitated. In brief, the proposition is that we should regard water not as a problem, but as an opportunity – and not as an opportunity for some of us and a problem for others, but an opportunity for us all. And to make it an opportunity for all is our task.

Water is a strategic New Zealand advantage in an increasingly water-constrained world.

We need to maximise the benefits New Zealand draws from this resource

- as a source of life
- to strengthen our heritage and culture (including Tikanga and Mātauranga Māori)
- to support our unique species and ecosystems
- to increase our pleasure through recreation and sport, relaxation and contemplation

as well as

- to optimise our economic opportunities (food, wine, fibre, hosting of foreign visitors, generation of energy, manufacture of goods).

There are two conundrums for us to solve, neither of them easy.

1. In the long run, we won’t maximise our economic performance unless we hold all of the water-dependent economic activities – agriculture, tourism, forestry, energy, industry, innovation – in our minds. They intersect and conflict and we can’t exclude this one or that one because we inhabit a diverse economy and we don’t know what the future will hold.
2. In the long run, if in maximising our economic opportunities we don’t pay proper attention to the other dimensions – heritage- and cultural, social-and-personal, we are also limiting our potential for riches across the board, and we are likely to stay stuck in dispute mode.

The essential characteristics of this approach are that it is optimistic and it is active. It is about going for the highest common denominator for a step change, not getting by unhappily with the lowest.

I don't think that delivering on this vision is going to be easy, including because we are short on time. But I am optimistic that we can come to Government, not with a complete and detailed blueprint – there are not enough days – but with consensus round some key points which contain the elements that the Government asked us for:

- goals and objectives, and
- ways of achieving them.

I am optimistic because the Forum has brought together an unprecedented group of stakeholders in the management of freshwater in New Zealand. They have committed themselves to the process and maintained and deepened a constructive dialogue over the past nine months.

It is progressive. I got an email the other day which said, "I thought yesterday's small group meeting was a very significant one, even if it didn't seem so at the time. ...Such a dialogue would have been inconceivable six months ago!"

Participants consider themselves to be part of a problem solving network. Someone else wrote on a suggestion I made for consultation between like-mindeds in the Plenary and the Small Group: "I am nervous about this comment. If like-minded people talk to each other they could create a feeling of distrust, unease, or even complete opposition to the process. The advantage of the collaborative approach is that people talk to others with normally different views to get their understanding. Across group understanding is needed."

What do we need to do?

I chair the group – I don't determine what it will decide, but let me share a couple of thoughts derived from listening to what people have said so far. This is not a blueprint, and not a promise.

In the first place I hope our report will be the expression of a sense that we are all in this together – that this rather wide coalition of stakeholders has agreed a **common** direction to improve the management of water (and all that that implies for management of land) and that we are past the point of arguing with one another about whether we need to do so. I hope that that will encourage the communities with whom we are linked – local and national – to turn their knowledge and ingenuity to finding practical and progressive ways of moving forward. Helping to bring about that mind-shift seems to me in many ways our most fundamental task.

That will depend on whether we can offer the Government options which provide a clear course and constitute a serious response to the challenge. It would be quite inappropriate for me to brief you on the results of our progress

before it is complete, and I shall not do so. What I think I can do is to offer – on my own responsibility – three rather bald and partial indicators of direction.

1. I don't think that we will be taken seriously unless our work leads overall to a real improvement in water quality.
 - This won't be even
 - It will have to happen over time
 - Implying targets/milestones/reviews?
 - Iwi perspectives will have to be understood and registered.

Industry initiatives taken in response to international markets or for domestic reasons will be important. So will the regulatory framework within which they are taken and the issues which arise when they are not enough.

2. Equally we will not be taken seriously unless we can help ensure that water can continue to play its part in our economic growth. Here I want to make just two observations.
 - First come/first served doesn't serve any longer as a means of allocating water in a growing number of catchments. There seems to be an increasingly clear need to consider other approaches – less centralised, more responsive, and with lower transaction costs. Iwi issues round ownership will need to be taken into account.
 - New water, whether it comes from storage or from more efficient use can ease over-allocated situations. Greater security of supply can promote more efficient use. But to get agreement about new storage we need win-wins – for the environment as well as for the economy. And we have to sort out issues round quantity (minimum flows, in-stream values) and down stream quality with other stakeholders.
3. On governance, to put it very simply, a primary, or underlying, need is to clarify what has to be done at the national level, by the national community, and what has to be done at the catchment/regional level by the relevant communities. And to think about how these two impulses interact. The broad question of iwi involvement will also need to be addressed. And we need to think about the question of a national strategy.

In all these areas, and in others, we are registering agreements and expanding them. I am very optimistic. But this is the hard end of the process, and we will need all our intelligence, courtesy, good humour and capacity to take a broad rather than a narrow view of our interests to get us across the line. Wish us luck.

