

The water bottle battle – whose water is it?

Matt Conway, 21 September 2017

Setting the scene

“The war for water: A battle at boiling point”

“Ratepayers charged 500 times more for water than bottling companies”

“Every other country would be saying, these idiots are giving their water away”

NZ Herald, 22 May 2017



Setting the scene

“Who owns the water? Labour says everybody, National says nobody, but the Waitangi Tribunal says Māori.”

Te Ururoa Flavell MP



What I will cover

- New Zealand's water management regime
- The ownership framework
- Another way of looking at the issue
- What problem would water charging seek to address?
- Where to from here?

New Zealand's water management regime

- Historical context:
 - No private property rights in fresh water under common law
 - Change in approach to fresh water management with the enactment of the Water and Soil Conservation Act 1967 (WSCA)
- Current regime:
 - RMA repealed WSCA and introduced the overarching statutory purpose of the sustainable management of natural and physical resources
 - Control of fresh water delegated to regional councils for the purpose of giving effect to the sustainable management purpose of the RMA

A: No one owns water

- Position under common law and position maintained by the current government
- Poses a challenge for the implementation of any water charging regime – on what basis could a charge be imposed, and who would be entitled to the proceeds?


B: Everyone owns water

- Fresh water is a common resource that is “owned” by everyone
- Tragedy of the commons?
- Administrative hurdles: Who would administer a charging regime and to whom would a charge be payable?
- May fail to recognise Māori rights and interests in fresh water

C: A select group owns water

- Fresh water is owned by select individuals or a group of individuals
- Who has the best claim to ownership?
- How would we ensure access to fresh water for those without ownership rights?

Conclusions on the ownership framework

- Can be divisive and polarising
 - Ill-fitting in the context of water, particularly in light of New Zealand's bicultural foundation
 - Current fresh water management regime does not call for ownership to be ascribed – ownership is not necessary to achieve sustainable management purpose of RMA
 - Does a view of fresh water as property hinder the achievement of sustainable management?
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Other ways of looking at the issue

- Water as a life source rather than a resource
- Wider use of concepts like Te Mana o Te Wai
- Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 – a water body as a person – should we approach fresh water management outside the ownership framework?
- Question is not “who owns water”, but “how can we best protect and manage fresh water to ensure that it can sustain us and future generations”

What problem would water charging seek to address?

- Prevent, or reduce the volume of water being sold overseas
- Keep more of the profit from water exports within New Zealand
- Provide revenue to fund water enhancement projects
- Create an incentive to take less water or use it more efficiently

Where to from here?

- Time to move past the ownership framework and consider how best to steward fresh water
- Need to gain clarity and consensus about what problem water charging seeks to address before proceeding with any charging regime

