

What happens at expiry of water take consents?

Background

Currently surface water and directly connected groundwater in the Ruamāhanga catchment is fully allocated. Using common expiry dates in sub-catchments is now the practice for re-consenting. It means a block of water is available at the common expiry date. The Ruamāhanga Whaitua Committee (RWC) will need to make recommendations around how spare water should be allocated at consent expiry.

Recognising existing investment

The RMA requires the value of existing investment to be considered when applications are made for resource consents to take water (RMA S104 (2A)). It places an emphasis on the Council returning water to users with existing infrastructure when an application is made to renew an existing resource consent. While there is an expectation on the part of resource users that they will get the full quantum returned that is not necessarily the case. The Council must have regard to the existing investment, and must do this on a case by case basis. The Council can and does require an efficiency test to be met to ensure the performance of existing and new water use systems.

Central government

Central government is currently considering water allocation solutions for the future. Matters they are addressing include economic values and iwi rights and interests. These matters are likely to be addressed by central government regardless of who is elected. Central government have acknowledged iwi have rights and interests in relation to water. The nature of these rights and interests will be different around the country. Resolution is a matter between the crown and iwi. An option for the RWC to consider that will facilitate resolution of iwi rights and interests at this stage, is to reserve access to spare water.

Options and priorities for allocating water

At the 14 August 2017 workshop a number of options were discussed including, giving existing users priority, users negotiating with each other (transfers and sharing), clawback according to land area, changing allocation over time, applying the efficiency test, using an enhanced efficiency test, giving priority to human health, and giving existing and new users proportions of the available water (eg. 80:20). Having regard to the RMA existing investment provision probably does not allow some of these options (proportional allocation) to be implemented because the RMA requires regard be given to existing investment when application is made to renew individual resource consents.

Our water allocation system is likely to change soon. It's not possible to anticipate what it will be or the direction of change. One thing for certain is that water use into the future will need to be efficient. In a fully allocated catchment, water can become available at consent expiry if application of the efficiency test means some water is not allocated to existing users. Water may also become available if existing users do not renew their consents in part or in full.

Deciding who gets spare water could include a requirement for enhanced water use efficiency (greater than the efficiency test). For example, efficiency gains could be made using water storage. Water sharing agreements between users is also an efficient way to use water because it provides for increased use of water that has already been allocated. Allocating water for the health needs of people is also a priority for spare water.

A priority system to allocate spare water using ideas RWC members put forward include new uses or users that meet one or more of the following:

- Water for the health needs of people; and
- Water use efficiency greater than the efficiency test; eg.
 - using 'new' water (eg. storage, managed aquifer recharge)
 - multiple water users such as water sharing agreements that provide for increased use of allocated water.

The alternative option of reserving water while central government decides its allocation solutions should also be considered by RWC.

Recommendations

At common expiry dates for existing users holding resource consents in a catchment:

- 1 Existing water permits are renewed subject to meeting the efficient use test; and
- 2 Spare water is available to other uses or users after giving priority to:
 - Reserving water
 - Water for the health needs of people
 - Achieving higher level of efficiency e.g.
 - Water storage, managed aquifer recharge
 - Water sharing agreed between multiple users.