

One Plan Appeals Dismissed in Part

Justice Kós in the High Court has dismissed Horticulture New Zealand and Federated Farmer's appeals on the Environment Court decision on the One Plan. This means that the Environment Court decision on the One Plan will stand, barring an appeal.

Basically, the One Plan involves the conglomeration of the regional policy statement and the regional plan into one regional plan. The One Plan was first notified in 2007 by the Manawatu-Wanganui Regional Council. An independent hearings panel recommended scaling back the notified version of the One Plan which was subsequently set aside by the Environment Court through the appeals process.

Federated Farmers and Horticulture New Zealand appealed the Environment Court decision to the High Court. When combined their appeals amounted to 19 questions of law or grounds of appeal. During the proceedings the Appellants abandoned four questions of law. Justice Kós found that the Environment Court did not err in law on any of questions of law that remained, except one. The one exception revolved around a slight wording difference in a policy concerning the management of erosion of sediment into water.

This outcome means, among other things, that all existing intensive farming located in a targeted water management sub-zone will have to seek resource consents. Generally, all new intensive farming anywhere in the region will have to apply for resource consent. Existing farming activities in targeted water management sub-zones will have to reduce their nitrogen discharges incrementally over a twenty year period to qualify as a controlled activity, otherwise they will be assessed as restricted discretionary or higher. New intensive farming activities will have to meet the twenty year nitrogen discharge limit from the beginning of operations.

The One Plan decisions approve of the use of the Land Use Classification of the subject land, in combination with projection of N leaching using the Overseer model. The intended outcome of setting the N leaching limits is that they will ultimately achieve instream water quality limits set to protect the identified resources and their qualities.

Barring a successful appeal by the Appellants to the Court of Appeal or Supreme Court, the High Court and Environment Court decisions provide for yet another different regulatory framework used by regional councils in controlling the effects of agriculture on water quality. Approaches used by regional councils range from the cap and trade approach used in the Rotorua and Lake Taupo lakes' catchments, control of effects by controlling land use and types of farming used in Southland, through to permitted activity discharge rules with surface water and point source discharge standards proposed in Otago. While there are of course differences between regions, management of water quality could also benefit from some national direction to reduce inefficiencies and provide certainty for users, regulators and the wider community. For more detail on the range of methods used and issues that raises, see our previous article, [The Inconsistent Regional Management of Farming Effects on Waterways](#).

If you would like any more information on the One Plan, the effects of the court decisions or the range of other regulatory methods used by regional councils to control effects of water quality please contact [Maree Baker-Galloway](#), [Mark Christensen](#) or [Jen Crawford](#).