

## FORUM ARTICLE

# Is collaboration good for the environment? Or, what's wrong with the Land and Water Forum?

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**Abstract:** Collaborative environmental governance is a prominent approach to natural resource governance in New Zealand. It is emerging in the Land and Water Forum, Canterbury Water Management Strategy, and the proposed Resource Legislation Amendment Bill. This article reviews political and economic theory to ask if collaboration is good for the environment in the context of the Land and Water Forum. Interest group and public choice theories offer cogent reasons for pessimism. Elinor Ostrom's and Guy Salmon's models offer reasons for optimism. I conclude that the most pertinent parts of Ostrom's model for New Zealand are her caveats. Her model applies to closed systems, not open systems such as rivers with down-stream effects like nitrate *E. coli* contamination. In open ecological systems, pessimism about local collaborative environmental governance is warranted unless decisions are shackled to strong and unambiguous national regulation. Without strong regulation, collaborative governance creates systems in which those not invited into the collaborative deliberation do not count. In natural resource governance, this dynamic will favour resource development interests over conservation. I conclude that collaborative environmental governance risks being less than democratic, less than fair, and less than good for the environment.

Not surprisingly, optimists and pessimists would view the Land and Water Forum differently. Optimists would say that it is an incomplete application of a promising model. Unfortunately, ecological outcomes data to settle the question are rarely collected internationally and do not exist yet in New Zealand. Pessimists would say it was doomed from the start by power imbalances, displaced and subjugated environmental goals, and a fundamental lack of democracy. Such pessimists might say Fish and Game was wise to pull out in November 2015, but would have been wiser to pull out sooner.

**Keywords:** Canterbury Water Management Strategy; collaborative environmental governance, Land and Water Forum

## Introduction

Collaborative environmental governance is becoming a fashionable approach to the governance of environmental resources in New Zealand. In recent years we have seen it emerge in the Land and Water Forum (LAWF), the Taupo Catchment, the Mackenzie Agreement, and the Canterbury Water Management Strategy, among others (Rennie 2010). The proposed Resource Legislation Amendment Bill increases the scope of collaborative planning because it, 'encourages greater front-end public engagement, which will produce plans that better reflect community values and will thereby reduce litigation costs and lengthy delays.' (Resource Legislation Amendment Bill 2016, Explanatory Note).

Collaborative governance, 'combines the concepts of: [1] Collaboration: ... to co-operate to achieve common goals. ... Co-operation is based on the value of reciprocity. [2] Governance: To steer the process that influences decisions and actions within the private, public, and civic sectors. Although government plays a role in governance, it is not the only player.' (Eppel 2013, p. 27).

Collaborative environmental governance has become a well-studied alternative to top-down regulation of a central authority, with a growing literature in the environmental studies

community, as well as in political science and economics. Many herald collaborative environmental governance as delivering outcomes which are more democratic, less overtly political, and better for the environment than traditional top-down governance (see for example Kemmis 1990; Sirmon et al. 1993; Duane 1997; Wondolleck & Yaffee 2000; Lawrence et al. 2001; Weber 2003; Leach 2006; McGuire 2006; Miller & Fox 2007). In situations where different interests define the problem differently, or deny it completely, collaborative governance can encompass the disagreement and harness it towards a common solution (Eppel 2013). Collaboration appeals to competing interests: to business interests it offers more flexible and cheaper regulations than centralised legislation; to divided local communities it offers greater awareness, understanding, and peace while arriving at some form of economic sustainability (Klyza & Sousa 2008); and to battle-worn environmentalists it offers environmental outcomes that are as good or better than top-down regulation and less painful to achieve (Wondolleck & Yaffee 2000). Indeed Elinor Ostrom (1990, 1998, 2009) theorised and observed that, under the right conditions, local collaborative governance of a shared resource can work socially and environmentally.

Ansell and Gash (2007) noted that many believe collaborative governance offers at least three improvements

over previous models: (1) it will expand democratic participation in local affairs, enhance democracy, and thereby create a sense of shared ownership of larger and more complex problems (e.g. Bryan 2004); (2) it will make public management more rational, by getting the politics out of the way of good management; and (3) it will reduce cost, presumably making the environmental dollar go further. However, the ability of collaborative governance to live up to these promises has been little explored. Research has rarely focused on environmental outcomes (Yaffee & Wondolleck 2003; Koontz & Thomas 2006; Ansell & Gash 2007; Thomas 2008), so it is difficult to say whether it has yielded better or worse results for the environment than its managerial and adversarial predecessors.

Furthermore, many US environmental groups are notably sceptical about collaborative governance because they feel that it is advantageous to industry groups, and that it abdicates federal responsibility, circumvents environmental laws, leads to 'lowest-common-denominator' solutions, is not accountable to public and scientific review processes, and is undemocratic (McCloskey 1999a, b). Their concerns that collaboration can work socially, but not environmentally, find support in public choice theory, the rational actor model of politics (e.g. Downs 1957; Mueller 2003), and the neopluralist school of political science (MacFarland 2004).

Thus, political and economic theory and observation provide reasons for both optimism and pessimism about what collaborative governance has to offer the environment. This paper reviews those reasons within the context of the LAWF and considers what collaborative governance may offer for the environment in New Zealand.

## Reasons for pessimism

Political science and economics provide four reasons for pessimism about collaborative environmental governance. Interest group theory predicts it will be undemocratic; public choice theory predicts it will favour resource development over the environment; and displacement theory predicts it will avoid measuring environmental outcomes and bar participants from appealing unsatisfactory outcomes.

### **Pessimism 1. Collaboration is undemocratic**

Interest group theory presents three challenges to the idea that replacing managerial or adversarial top-down leadership with collaborative community leadership enhances democracy. First, by sharing the authority vested in government by voters, collaborative governance would appear to risk undermining the authority of the voting process. Theodore Lowi said of collaborative environmental governance: 'the motivation is ... to try to finesse the coercive nature of public authority ... [and] pretend away public authority' (Lowi 1999, p. 17–18). The advance of delegated and collaborative authority means the decline of public authority, public accountability, and the rule of law (Lowi 1969). A 'broad delegation of power' from an elected body such as congress, parliament, or a territorial authority is what Lowi called famously 'policy without law' (Lowi 1969, p. 126). Policy without law could still adhere to principles of democratic accountability if the delegated authority were 'given the power to be flexible, but it was relatively well shackled by clear standards of public policy, as stated in the statute and as understood in common law' (Lowi 1969, p. 131). A grant of broad and unshackled powers away from elected authorities is but an 'imposition of impotence'

upon the elected authorities and the voters who elected them (Lowi 1969, p. 156).

Second, in practice, collaborative governance appears to disempower certain types of groups almost systematically. Any group will develop imbalances of power, but some types of constituencies are more likely to be powerless than others (English 2000). A national, disorganised, geographically dispersed, or otherwise diffuse constituency is likely to be comparatively disadvantaged to those that are more organised, local, and concentrated (Rogers et al. 1993; Buanes et al. 2004). Further, a group with a vested financial interest is likely to be more organised and thus more successful than the public interest groups (Olson 1965). This disadvantage lies at the heart of criticisms that local collaboration is not accountable to national interests (McCloskey 1999a, b; Manring 2005). Conservation and environmental groups are often in the category of disadvantaged national interests (like the Royal Forest and Bird Society ('Forest and Bird') or Fish and Game Councils of NZ ('Fish and Game')); while development-oriented groups (like the Hurunui Water Project, proponents of a North Canterbury irrigation scheme) are often vested, local, organised, and concentrated.

Third, though the managerialism of scientific management and the adversarialism of command and control each had its problems, they also each had the advantage of giving the public the means to express their concerns about technical problems. When legislators, judges, ministries, or territorial authorities make decisions for the public, they might favour those with the technical wherewithal to participate in detailed discussions (Merkhofer et al. 1997; Day et al. 2003; Lasker & Weiss 2003; Murdock et al. 2005; Warner 2006). Similarly, not all interested parties have the time to participate in collaborative efforts, as many have full-time employment, family, and personal commitments (Yaffee & Wondolleck 2003). Finally, a form of democracy that is more direct and participatory can systematically disadvantage certain constituencies, such as the less eloquent and less educated. Hibbing and Thiess-Morse (2002, p. 203) comment '[t]he chorus in the interest-group pluralism [representative democracy by voting] heaven may sing with a decidedly upper-class accent, but in direct deliberation [direct democracy by collaborative participation] heaven it sings with a decidedly white, male, educated, confident, blowhard accent'. Though scholars have offered remedies for these and other pitfalls (see Ansell & Gash 2007, p. 9–10 for a summary), diminishing the power of voting and appeals risks circumventing democracy in favour of efficiency.

### **Pessimism 2. Collaboration favours development over the environment**

Although participants may enter collaboration with the expectation of a fair and desirable result, interest group and public choice theories predict that the development interest will wield greater power than the environmental interest in collaborative governance efforts (Olson 1965). Several studies have observed this outcome (McCloskey 1999a, b; Echeverria 2001; Schuckman 2001). When interest groups get to negotiate the meaning of legislation (environmental or otherwise), the outcome will often benefit corporate and development interests at the expense of the public interest, however nebulous that might be (Klyza & Sousa 2008).

### **Pessimism 3. Collaboration goals will be displaced**

Social theory predicts several forms of displacement behaviour might arise in collaborative environmental governance when

'the organisational means [such as collaboration] become transformed into ends-in-themselves and displace the principal goals...' (Merton 1957). This taking one's eyes off the prize has the potential to exacerbate the power imbalances predicted above.

A first manifestation of displacement behaviour has been noted by Ansell and Gash (2007), that success is primarily measured on stakeholder perception of good faith negotiation, consensus, and satisfaction with process, rather than ecological outcome. Indeed this might be the goal. The primary outcomes desired from collaboration on an environmental problem are things like citizen engagement (Stivers 1990), social empowerment, opposition appeasement, or maintaining the *status quo* (Stone 2001). These outcomes have little to do with environmental problems like water quality or species numbers (Brower et al. 2001; Ansell & Gash 2007).

Indeed, although such procedural displacement behaviour is detrimental to environmental goals (Brower et al. 2001), many observe that it appears essential to the progress of collaboration among antagonistic stakeholders (Ansell & Gash 2007). Ironically, the survival of collaborative environmental governance may therefore rely on displacement behaviour and avoiding the measurement of environmental outcomes.

#### **Pessimism 4. Collaboration forces participants to uphold decisions regardless of outcome**

The final manifestation of displacement behaviour is in the effect of collaborative governance on the process of appealing a decision once made. It has often been observed that collaboration tends to favour the *status quo* over change (e.g. Stone 2001). Although collaborative and adaptive management are often mentioned in the same breath, the displacement behaviour exhibited by the former renders the latter functionally impossible. This commitment to uphold the decision regardless of the outcome is a necessary component for successful collaboration (Ansell & Gash 2007). Hence participants must agree from the outset to be willing to sacrifice their ultimate environmental goal in the name of collaboration.

Ansell and Gash (2007) observe that this willingness to sacrifice self-interest in pursuit of a common good is sometimes construed as selfless altruism of participants. This so-called altruism risks giving the impression that the default position of development interests overpowering environmental interests is fair and unbiased, and that a collective Ouija board effort of all participants pushing with equal and opposing forces will produce fair and unbiased outcomes. Although there are exceptions, the public choice and interest group theories described above predict that private and public interests are opposing, but rarely equal, forces in the same way that hens in a henhouse are an opposing, but not equal, force to the foxes that fancy eating them.

#### **Pessimism proposition**

In light of the evidence above, I offer a pessimism proposition that:

A confluence of political, economic and social theories predicts that collaborative governance will produce outcomes that are: (1) undemocratic; (2) biased towards development over the environment; and dependent on (3) a lack of ecological measurement and (4) an inability to appeal decisions.

## **Reasons for optimism**

Ostrom's work offers reasons for optimism about collaborative environmental governance. Ostrom (1990, 1998) proposes that individuals can cooperate for collective and long-term benefit. In many ways, her work was a response to the abject pessimism of the 'Tragedy of the Commons' narrative (Hardin 1968), which resembles closely Olson's (1965) Logic of Collective Action, in which resources held in common are destined to be over-used and therefore should be privatised. It is often forgotten that Hardin and Olson offered another solution – mutually agreed upon coercion (which we know as regulation). Ostrom's common-pool resource ownership offers a third way out of Hardin's Tragedy: under the right conditions, admittedly self-interested individuals can cooperate and act altruistically in common-pool ownership, in the long-term interest of the community, not just the individual (Ostrom 1990, 1998).

The idea of common-pool ownership of a resource and its problems is to empower those affected by it to take ownership of the problem, manage its causes, and mitigate its effects. The underlying logic is that those affected by the problem have the most knowledge of it and are most motivated to manage and mitigate it for the benefit of all in the long term (Ostrom 1990). Parties affected include those who benefit from a resource held in common, like water users, and those harmed by its diminution. In other words, common pool ownership of a resource extends ownership rights to the beneficiaries.

Ostrom (1990) proposes eight principles for the successful governance of common-pool resources that might apply to collaborative environmental governance. These principles provide three reasons for optimism: (1) collaboration will be democratic and accountable if arranged and accessible across multiple levels; (2) collaboration relies on monitoring and enforcement by resource users themselves, not on avoiding measurement; and (3) collaboration leads to sustainable resource use instead of exploitative development.

#### **Optimism 1. Collaboration will be democratic and accountable**

Advocates of collaboration cite its democratic ideals including inclusiveness, representativeness, impartiality, transparency, lawfulness and empowerment (Leach 2006). According to Ostrom's model, collaborative environmental governance will be democratic and accountable if it is 'nested' within sets of rules at the local, regional, national and even international levels. This multi-level, nested approach enhances accountability, fairness and democracy (Ostrom 1990). Local interests must demonstrate that they operate within national rules, policies, and natural resource plans (Ostrom 1990). This appears similar to Lowi's 'shackles' (see Pessimism 1 above) and appears to address concerns about the accountability of collaborative governance to a National Policy Statement or National Objectives Framework under the Resource Management Act 1991, for example.

To put things in a different context, Schattschneider (1964) describes three classes of participants in political contests – public, private, and special interests. A public interest is a goal or good shared by all in the community, like drinking water quality. A private interest is shared by just a few, but does generate some public benefit (such as lake-based recreation opportunities from a private irrigation project). A special interest benefits just a few, with no public benefits.

If a resource-dependent community develops its own self-generated legitimacy through mutual trust, norms of



reciprocity among community members, and an importance of reputation among members, decisions about allocation of that common-pool resource can be fair to all those affected within the community and sustainable over time. This trust, reciprocity, and reputation translates into ‘quasi-voluntary’ compliance with rules developed within the community to regulate, monitor, and enforce fair resource distribution (see Ostrom 1990). Thus, a successful pattern of collaborative decisions about allocation of a resource depends on ‘the contingent nature of a commitment to comply with rules’ (Ostrom 1990). Similarly, Ellickson (1994) observed that small and tightly knit groups of neighbouring land-owners develop norms to which they comply voluntarily because the norms benefit all insiders involved, and outsiders have no say in such internal norms.

Salmon et al. (2008) compared New Zealand’s efforts at collaborative environmental governance to those in the Nordic countries. Like Ostrom, they list ownership of and empowerment over an environmental issue or resource as prominent pre-requisites for a successful collaboration. They criticise New Zealand’s so-called collaborative effort, aborted after five years, to craft a National Policy Statement on freshwater for using stakeholders as reference groups and sounding boards instead of ‘consensus building forums [sic].’ This effort failed to extend *bona-fide* rights of ownership and control to those affected. Government officials retained separate decision-making authority rather than ensconcing themselves in a collaborative, shared ownership, decision-making system in the Nordic style (Salmon et al. 2008). This lack of genuine ownership likely stemmed from a lack of trust in those affected to do the right thing (Salmon et al. 2008). This lack of trust can then become a self-fulfilling prophecy. Granting genuine ownership of and authority over an environmental problem engenders trust among those affected, allowing them to, ‘work directly together to achieve an agreement on how agricultural impacts on the environment should be managed.’ (Salmon et al. 2008, p. 9).

### **Optimism 2. Collaboration is not dependent on avoiding ecological measurement, prohibiting appeals and displacing goals**

Uncertainty in environmental decision-making underlies many governance problems (Dietz et al. 2003), but may be reduced over time through the successful mixing of scientific (formal) and local (informal) knowledge (Ostrom 1990). Therefore, in Ostrom’s (1990) approach, monitoring is ongoing, as is the sanctioning of non-conformity, albeit graduated so as not to be overly severe and discourage outright cooperation. Thus, a balance of rules and norms developed over time obviates costly litigation. Trust, reciprocity and reputation that evolve during monitoring and enforcement inspire the confidence ‘that others are cooperating and the ruler [is providing] joint benefits, they [individuals] comply willingly with laws (rules)’ (Ostrom 1990, p. 95).

In Ostrom’s model, resource-dependent communities themselves develop conflict-resolution mechanisms to determine what constitutes an infraction and how it should be punished (Ostrom 1990). Thus, participants need not forego the right of appeal.

### **Optimism 3. Collaboration does not favour development over the environment in allocation decisions, but might in decisions about effects**

Ostrom posits and observes that, in the right circumstances of

reciprocity, trust and reputation, self-interested individuals can overcome short-term profit motivations and act in the long-term communal interest of a common-pool resource. However, Ostrom focuses on sustained collective and collaborative use of a resource. Admittedly, it does not consider the effects of that resource use, felt by common-pool owners and outsiders alike, and externalities such as pollution are therefore not considered by those affected within a common pool resource system (Ostrom 1990). To combine Lowi and Ostrom, insiders might be ‘shackled’ to consider outsiders’ concerns at nested regional or national levels. Assigning ownership and access rights to a given resource pool neither accounts for nor controls external effects of resource use other than resource depletion.

### **The optimism proposition**

Using a behavioural approach to rational choice theory, the work of Ostrom (1990, 1998, 2009) and others predicts that:

Collaborative environmental governance will succeed if a positive feedback loop of trust, reciprocity and reputation is fostered by individuals associated with a natural resource. The positive feedback loop evolves in conjunction with a mixture of formal and informal checks and balances that define the ongoing governance arrangement for that particular resource pool. This improves the likelihood of successful collaboration between individuals with property interests in a common-pool resource.

## **Discussion – optimism, pessimism, and the Land and Water Forum**

It is timely to ask questions about the prospects for collaborative environmental governance in New Zealand, because its environmental outcomes are largely untested yet. Most published descriptions focus on the positive, without considering the risks. Further, most studies measure social outcomes, without considering environmental ones. As if to exemplify this, the LAWF was declared ‘a successful attempt to solve an entrenched policy problem’ of contentious freshwater use after producing three reports in three years (Eppel 2013). This section examines that proclamation of success through the lens of the propositions developed above.

The LAWF (Land and Water Forum, [www.landandwater.org.nz](http://www.landandwater.org.nz)) grew out of a 2008 agreement among the Ministry for the Environment and farming and environmental interests to form the Sustainable Land Use Forum, bringing, ‘all stakeholders who had an interest in freshwater, including, crucially, iwi leaders, into the room.’ (Taylor 2013). In 2010, as the LAWF became institutionalised and formed a secretariat, the Government sent its draft National Policy Statement for Freshwater Management to the LAWF for response (Baines & O’Brien 2012). Hence the LAWF quickly became central to national freshwater policy-making. Its size and its centrality make it a powerful, if not representative, test case for the optimism and pessimism propositions.

The LAWF involves 68 organisations with interests in agriculture, water, and natural resources including recreation. As of early 2016, it had produced four reports. Those reports contain some 156 recommendations, of which the Government has picked up some in its now final 2011 National Policy Statement on Freshwater (Norris 2015). A core group of 21 organisations has negotiated its way through the bulk of the policy work behind those recommendations. In early November

2015, six years into the collaborative project, one of New Zealand's leading environmental and recreation advocates, Fish and Game, left the LAWF (Stewart 2015).

### **Insiders, outsiders, and those affected**

The optimism proposition requires very particular definitions of those affected, particular boundaries of the system being governed, and particular relationships between proponents and opponents of resource development. Some of the media statements by and about Fish and Game's departure from the LAWF suggest that those definitions either were not in place, or did not suit Fish and Game's interests.

Collaborative governance is most robust when those dependent on a resource, or affected by its governance, can participate in modifying the rules governing resource use (Ostrom 1990). Democratic fairness in Ostrom's model depends on the ability of those affected to exclude 'outsiders' by defining boundaries and access rights to the resource (Ostrom 1990). In other words, those affected must have meaningful ownership and exclusive control of the resource and be nested within a system of regional and national interests (see design principle #8; Ostrom 1990). For this to work, these regional and nationally nested interests must be paying close attention and standing at the ready to mobilise (see design principle #7; Ostrom 1990). In short, the concerns of outsiders risk being ignored in the decisions made by those affected (Brower 2008).

In the case of Fish and Game it seems that even insiders' concerns can sometimes be overlooked. This is perhaps because collaboration changes relationships amongst political players, which has several potential consequences: (1) collaboration requires participants to cooperate, which changes the relationships between proponents and opponents of resource development; (2) this changed relationship strongly discourages opponents to appeal a decision, as that would violate the spirit of collaboration and so-called altruism, or be 'unhelpful'; and (3) it further creates a situation of dominance in which vested development interests keep their friends close and their enemies closer.

Indeed the enemies closer than friends dynamic of the collaborative LAWF process weakens, if not silences, the voice of any opposition to the collaborative decision. LAWF took pains to include all interests whose opposition posed a threat, and then forbade all participants (by definition all possible opponents) from criticizing the LAWF publicly.

In 2012, a LAWF participant observed that it was crucial that the Forum's 'Small Group' of decision-makers, 'include all the people of the Plenary who could stop this dead; they had to be inside the tent.' (a LAWF participant quoted in Baines & O'Brien 2012, p. 20). Further, on 11 February 2015, the chair of LAWF issued a draft protocol of etiquette for participants, including a section prohibiting participants other than the chair from commenting publicly on proceedings or decisions (Bisley 2015). Resembling the NZ Cabinet's Doctrine of Collective Responsibility, this all but silences potential political opposition. By prohibiting both after-the-fact appeals and during-the-process dissent from all participants, the LAWF exceeds the fourth pessimism proposition by a significant margin.

Perhaps not surprisingly, Fish and Game found it hard to fulfil its statutory mandate to protect access to freshwater resources while adhering to the protocols for LAWF participants. Upon leaving the LAWF, Fish and Game Chief Executive Bryce Johnson commented, 'when you sit down at the table with Irrigation NZ, the question isn't 'will there

be water for irrigation?' but it becomes a given of where and when and how. It limits your ability to advocate for water. The process is more superficial than substantial. For industry, it is ideal to have all the environmental groups neatly corralled inside the tent.' (Johnson quoted in Stewart 2015, p. 6).

One letter to a newspaper editor described it more pointedly, 'The Forum was yet another cynical ploy to ring-fence and emasculate reasoned opposition.' (O'Connor 2015, p. 8). In attempting to refute these claims, the Government inadvertently affirmed them in Parliamentary Question Time, saying participation in the collaborative forum, 'requires commitment in good faith towards other participants.' (Hon Nathan Guy, Minister for Primary Industries; New Zealand Parliament 2015). Further Hon Mr Guy demonstrated displacement behaviour by describing reports as measures of success (New Zealand Parliament 2015).

Further to the insiders and outsiders, the Ostrom-reliant optimism proposition assumes a closed system, in which there are no effects on outsiders. If the system is not closed, Ostrom's design principle #1 allows those affected to close it, by defining boundaries and ownership. Such a model might work well for allocating water quantity in a closed system of neighbours who have shared ownership of a pond. However, it would be less effective at managing water quality in the same system where non-owners are affected. In sum, optimism is most warranted where it is appropriate to consider the desires of those living closest to the resource, to the exclusion of everyone else. This local definition of those affected fails to suit the interests of a national organisation like Fish and Game. Indeed when Dr Ostrom visited New Zealand in January 2011, I asked her if her model works for rivers. She said no, categorically (E. Ostrom pers. comm.). It works for smaller, more closed systems, but large open systems are more problematic for two reasons. First, in a small closed system it is safe to assume that downstream effects do not exist, or that those affected by downstream effects have neither an interest nor a say in the decisions. Second, in a large, open system like the Hurunui River or the Mackenzie Basin, there are substantive downstream effects that urbanites, North Islanders, and foreign tourists care very much about.

Because few closed systems exist in a globalised economy, the poor fit of Ostrom's model to open systems does not bode well for the environmental outcomes of collaborative environmental governance attempts in New Zealand. Indeed the pessimism proposition is consistent with many studies in political science and economics (Wilson 1989). In the end, Fish and Game came to the same conclusion, with its Chief Executive writing, 'So, while collaboration sounds very nice, the reality is that it is a dressed up process predicated on compromise. Even worse is that everything is hidden from the public and conducted behind closed doors. Forum participants don't get meeting minutes. The process is great for vested interests seeking private commercial use of some public natural resource such as water. But it is a losing game for anyone wanting to retain that resource in its existing natural state for use as fish and wildlife habitat.' (Johnson 2016, p. 4).

Indeed political science and economics lead us to expect the LAWF, Canterbury Water Management Strategy, the Mackenzie Agreement and other collaborative environmental governance efforts to work up to a point, but only if participants avoid measuring the environmental outcomes and forfeit their rights of appeal. In other words, they may work socially, but not environmentally, producing a situation in which people agree while environmental quality continues to decline. Worse, while it might seem a good idea to invite those affected to collaborate

in order to come to an agreed solution, this democracy by invitation excludes those who do not know they are affected, and those who lack the time to participate. Ostrom's (1990) model unabashedly fails to account for effects on outsiders such as these, because it assumes a closed system in which there are no externalities. In the case of water quality, those of us who value the existence of freshwater biodiversity and drink tap water are outsiders. Economics and political science predict that democracy by invitation risks favouring the strong over the weak, the selfish over the selfless, and the bullies over everyone else. It contrasts with governance by representative democracy through election, which has the potential to include the weak, the selfless, and everyone else.

### Collaboration, governance, and power

Fish and Game's exit from the LAWF might not be an indictment of collaborative governance itself, but might be instead an indictment of an incomplete implementation of the model. One oft-levelled criticism is that the Government kept decision-making authority for itself, not fulfilling the 'governance' part of the definition. Indeed Johnson said the government divided 'collaboration and governance, and kept the governance bit for themselves' (Johnson quoted in Norris 2015, p. 6). This echoes Salmon et al. (2008), who said that the collaborative model's success relies on the government's willingness to respect the consensus views of the LAWF (Norris 2015). Further, media reports of Fish and Game's exit cite the Government's activities suggesting a pre-existing desire to promote irrigation, such as the Government's establishment of the \$150 million Irrigation Acceleration Fund in 2008 and its stated goal to double primary output by 2025 (Stewart 2015).

In addressing the question of 'what's wrong with the LAWF?', optimists and pessimists would probably answer differently. Optimistic believers in collaboration would say that the LAWF was an incomplete application of a promising model. A more complete approach might have worked better and kept Fish and Game in the fold. This claim of incompleteness is reminiscent of *London Review of Books*' description of the response of London's financial centre, called the City, to the Global Financial Crisis of 2008, 'Most City [financial] commentators would tell us that ... the cure for a problem caused by the markets is more reliance on market forces.' (Lanchester 2008, p. 12). Unfortunately, there is still a great need for ecological outcomes data to address the question of optimism vs. pessimism in LAWF, the Mackenzie Agreement, and other such collaborative endeavours; and meta-analyses of collaborative governance around the world reveal that such data are rarely collected, if ever (Ansell & Gash 2007; Thomas 2008). Indeed pessimistic sceptics of collaborative governance would say the LAWF was doomed from the start by power imbalances, displaced and subjugated environmental goals, and a fundamental lack of democracy. Such pessimists might say Fish and Game was wise to pull out, but would have been wiser to pull out sooner.

### Nascent optimism?

Although pessimism is warranted, it should not be abject. There is room for nascent optimism if, as Ostrom and others recommend, there are clear boundaries on possible outcomes of the collective process to function as a regulatory 'backstop'. The strength and substance of a backstop affects the desirability of collaborative governance. In situations where the backstop is a clear and unambiguous threat of a court injunction on resource development (such as under the US Endangered Species Act

1973), collaborative governance within democratically-defined limits is the only hope for would-be resource developers. Yet if the backstop is New Zealand's Resource Management Act 1991, which some argue offers standards that are 'obscure enough to please all parties, vague enough to be unenforceable, and so ill-defined that failures to implement the policy will be difficult to detect and impossible to litigate' (Walker et al. 2008, p. 226), collaboration in the form of pleading for voluntary compliance will be the only option for would-be resource regulators (Gunningham 2008). The strength of the backstop determines who asks whom to collaborate. A weak backstop encourages the regulators to ask the resource users, while a strong backstop encourages the users to ask the regulators. Thus, the strength of the backstop determines how far we should dilute pessimistic predictions that collaborative governance will favour development over the environment, and insiders over outsiders.

The National Policy Statement on freshwater, promulgated in 2011, might serve to 'nest' collaborative water governance within a set of regulatory 'shackles'. Further, on 7 November 2013, the Government issued a National Objectives Framework to guide regional councils in setting freshwater goals ([www.mfe.govt.nz/publications/water/proposed-amendments-nps-freshwater-management/index.html](http://www.mfe.govt.nz/publications/water/proposed-amendments-nps-freshwater-management/index.html)). The Framework sets national bottom-lines, resembling Lowi's shackles. The regional councils will get to decide which non-compliant water bodies should be excluded from the bottom-lines and which should be forced to comply. It thus appears that the Framework is a guide for a goal, not a clear and unambiguous threat of a moratorium on abstraction or contamination. Indeed, the key to accountability and democracy in collaborative governance seems to be the balance between local empowerment and central shackles. Ostrom's nestedness suggests some form of mixture could function as a system of checks and balances between central government and regional collaborative groups. Ideally, a balance would avoid both tyranny at the top and capture at the bottom.

While Ostrom's nestedness and Lowi's shackles could mitigate the pessimism proposition's most dire predictions about democracy, accountability and fairness, two predictions remain which I see no reason to discard: (1) that outcomes will favour development over the environment; and (2) that outcomes will favour insiders and be unfair to outsiders.

Although many collaborative efforts purport to avoid a 'winner take all' solution (Ansell & Gash 2007), many still create 'winner take most' outcomes. The logic of collective action (Olson 1965) predicts that the public interest group, no matter how numerous, is usually measurably weaker than a vested interest group, no matter how small. Thus, the default position in any negotiation about the distribution of public and private goods – collaborative or not – is that private will usually win over public. No matter how well intentioned the government officials, well trained the scientists, and altruistic the collaborative constituents, the logic of collective action predicts that the vested resource development interest will usually emerge as the winner who took the most. Although Ostrom (1990, 1998) carefully observes and theorises situations in which self-interested individuals will cooperate, cooperation is no guarantee of an environmentally favourable outcome.



## Conclusion

The changing role of government in the environment in New Zealand can be seen as a response to the famous Tragedy of the Commons, the degradation of the environment expected whenever many people pursue their own individual goals in a shared environment (Hardin 1968). Both Olson (1965) and Hardin (1968) argued that tragedy might be averted by mutual coercion to curb self-interest by imposing central regulation with strong state intervention; or private ownership and management of all resources that would curb public overuse in a shared environment because there would be no more shared environments. Collective or collaborative governance seems to offer a third way, combining the checks of central constraints with the balances of community ownership of the problem, if not the resource itself.

There are valid reasons for both optimism and pessimism about the future of collaborative environmental governance. However, I conclude that the outlook for environmental quality in New Zealand under collaborative environmental governance is bleak, but perhaps not dismal. There is room for nascent optimism if the structure contains sufficient institutional nestedness, centralised shackles, and an effective mix of checks and balances between national and local interests. However, I find no compelling reason to discard the pessimistic predictions that collaborative governance will favour development over the environment, and insiders over outsiders.

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