

RESOURCE MANAGEMENT SYSTEM — REFORM OR TRANSFORM?

Calls for reform of our resource management system are both long-standing and widespread. They derive from concern that, despite 22 amendments over the now 26 years since the Resource Management Act (RMA) was enacted, it has not ‘delivered’ in terms of its intended environmental outcomes, while others decry the impact of the legislation on economic wellbeing. In addition, and because of serial reform, it is said that the RMA is no longer integrated or coherent.

Without rehearsing them all, many reasons are given for this state of affairs, including concerns over poor implementation of the Act, a lack of Central Government direction and Local Government resourcing, and even “agency capture” (Environmental Defence Society *Evaluating the Environmental Outcomes of the RMA* (June 2016) at 56–58). Less clear is the degree of consensus over whether the problem with the RMA is one of inherent design and, as such, whether it is time to ‘start again’. Many argue that the fundamentals of the Act should remain, with the focus of any future reform on where the RMA is failing in practice. Much of the reform we have experienced over the past two decades is said to have been politically driven, without robust empirical assessment of the need for the series of amendments made to the RMA over that time (Environmental Defence Society (EDS) report at 20 and 57, Simon Berry, Helen Andrews and Jen Vella “Addressing the Shortcomings of the RMA and RMA Processes – Where to from here?” (August 2017) *Resource Management Journal* 9).

The RMLA conference theme this year — “*Transform or Reform*” — embraces that issue, as did comments made by the Panel that delivered the Founders Debate at the 2017 conference in Auckland. In that context, the purpose of this article is to steer the conversation towards the generation of ideas that might form the basis for at least some substantive reform of the RMA, considering the place and role of this legislation within the resource management system more generally. This paper comprises a broad overview of humbly made suggestions, which the author considers as lying closer on the spectrum to “reform” than to “transform”. The core principles and fundamental approach of the RMA would be retained but with a combination of structural and less significant surgery,



applying the learnings of the vast experience represented in previous works on this issue — that of the Founders and some of my own.

As a caveat from the outset, I should note that an inherent difficulty facing anyone mounting a case for significant reform stems from another key criticism levelled at the RMA — a lack of monitoring and objective evaluation of what the RMA has actually achieved or, conversely, has failed to achieve. Beyond that, we do not have a ‘control’ New Zealand available to compare the overall performance of the RMA against, be it the environmental and economic conditions that we would currently enjoy under some different regime, or the legislative framework that the RMA has replaced. Because of the “dearth of empirical analysis” of the outcomes of the Act for the environment (EDS Report, at 20) resort is necessarily had to perceptions of stakeholders within our current resource management system. I have focussed attention on aspects of the RMA that are seen to be creating problems for the environment and economy, through my own summation of the outcomes of the extensive reviews and research recorded regarding such perceptions in the reports referred to in this paper.

A STARTING POINT — STABILITY AND RESILIENCE

Readers may recall that the focus of the 2014 Resource Management Law Association (RMLA) conference in Dunedin — ‘*Through the Looking Glass*’ — was on resource management system design. In her keynote address *Towards Environmental Constitutionalism: A Different Vision of the Resource Management Act 1991?*, Professor Elizabeth Fisher stressed the “hot” nature of environmental problems involving, as they can, many parties and interests, as well as a significant degree of controversy. She then explained how “hot” environmental problems lead to “hot” environmental law, characterised by serial reform and quick fixes. To restrain this tendency, a form of environmental constitution in the sense of being a “stable frame” is required. Professor Fisher suggested we can think of Parts 2 and 3 of the RMA in that way. She described these provisions as “a set of foundational ground rules” for the development and allocation of powers — a “metalaw” creating an overarching structure of standards, policies and plans. I recall that my ‘take home’ from her address was that we should hold fast to the stability which pt 2 of the RMA currently provides, yet ensure that the RMA otherwise generates a vehicle through which the ‘wicked’ nature of resource management issues can be constructively resolved.

A basic paradox in that regard is that, rather than being stable, any environmental system is instead highly dynamic. The 2017 Productivity Commission report *Better Urban Planning* (The New Zealand Productivity Commission *Better Urban Planning* (March 2017) at 253) reasons that both built and natural environments are complex, adaptive systems, whereby it can be difficult to predict the effects that a given activity will have, address cumulative impacts and determine what response will be made to regulation, in terms of influencing human behaviour. Alongside the necessary stability of the core framework is a need to accommodate what Dr J B Ruhl referred to, in his keynote address to the Dunedin RMLA conference, as “adaptive governance”.

The RMA has a long-established, overriding purpose of sustainable management as expressed in s 5. The intended ‘meaning’ of this section was somewhat clarified by the Supreme Court in *Environmental Defence Society Inc v New Zealand King Salmon Company Limited* [2014] NZSC 38, (2014) 17 ELRNZ 442 (*King Salmon*). While there have been calls for significant reform to ss 6 and 7, I am not aware of any suggestions that s 5 of the Act should be

amended, noting that some Panel members within the Founders Debate expressed a preference for the “overall judgment” approach to application of s 5, prevailing prior to *King Salmon*. A further question I raise, though, is whether sustainable management is sufficient. In my view, the case can be made that an additional principle of ‘resilience’, embracing the concept of adaptive governance, should sit alongside sustainable management as a key purpose of an effective resource management system.

Much of the case for reforming the way in which our planning instruments are prepared has been driven by a concern to ensure that they are responsive to change — i.e. that they reveal adaptive governance in practice. The system must surely have the capacity for this type of resilience, as a fundamental attribute. Beyond that though, this principle must also translate into how we plan, and what we plan for. Built environments and infrastructure increasingly need to be able to withstand ‘shocks’, and ‘planning’ for greater resilience has this important dimension as well.

Part of the ‘adaptive governance’ dimension of resilience is about monitoring and evaluation, the capacity for which has recently been enhanced through the Environmental Reporting Act 2015. Part of that dimension is, however, more systemic, at a broader scale. The current resource management system is simply too cumbersome. The plethora of planning instruments across the system creates an excessive degree of *inertia*, which any sensible process for promoting and publicly testing new planning instruments cannot, alone, resolve.

As I address further below, there needs to be less ‘clutter’ within the resource management system, and we can and should start with the RMA. While partly an issue of implementation, an element of structural reform within the RMA is needed to reduce this degree of clutter, and thereby give local authorities greater agility to more readily respond to the outcomes of monitoring and evaluation, as well as to the inherently dynamic characteristics of the natural and built environments. We also need to better focus our planning attention on what really matters.

SECTIONS 6 AND 7 — FOCUS ON WHAT MATTERS

Sections 6 and 7 of the RMA have largely remained intact, albeit expanded, through the series of reforms undertaken by successive governments over the past 26 years. However, there have been more recent proposals for

substantial reform to ss 6 and 7, including their significant reframing and amalgamation (Ministry for the Environment *Report of the Minister for the Environment's Resource Management Act 1991 Principles Technical Advisory Group* (February 2012), Ministry for the Environment *Resource Management Summary of Reform Proposals 2013* (August 2013)). While those reforms proved to be a 'bridge too far' politically, and so did not find their way into the Resource Legislation Amendment Act 2017, future amendments to these sections of RMA remains a possibility.

My humble suggestion is that *if* the s 6 and s 7 matters are to be revisited, they should retain their basic hierarchy, as is now well understood through case law and in practice, and serve alongside s 5 as part of the stable framework described by Professor Fisher. But within that, I suggest that s 6 might both better reflect, as well as directly recognise and have provision for, what are undeniably the compelling priorities for environmental management in the decades and generations ahead.

The first and foremost of these priorities, in my opinion, is climate change. Second equal, perhaps, would be two issues which the system to date has inarguably failed to adequately address: our ever-declining indigenous biodiversity, and overallocation in terms of both water quality and quantity.

I moot a revised s 6 where both the effects of *and on* climate change comprise the first stated matter of national importance. This would be followed by the need to protect and enhance indigenous biodiversity (the requirements for which may extend beyond *significant* indigenous vegetation and *significant* habitats of indigenous fauna, as under the current s 6(c)) as well as water quality, quantity and 'aquatic habitats' (i.e. more broadly, than as occupied by trout and salmon, refer s 7(h)). The current and remaining matters of national importance would then follow, albeit not necessarily in declining order of relative importance. Consequential amendment to s 7 could follow in turn, involving removal of matters addressed in the revised s 6.

Part of my intent in suggesting a degree of relative priority to certain specific matters within s 6 is that a great deal of energy, time and cost within our resource management system to date has been devoted to resolving what are really private, rather than public, interest concerns. Entire careers (including mine) have been forged through litigation centred on protecting — or otherwise — the

amenity or landscape values which people living in a given setting might, for the time being, enjoy. The current ss 6 and 7 imperatives direct considerable priority attention to these matters.

Only relatively recently have the more significant issues around water quality, water quantity and biodiversity come to the fore in our resource management jurisprudence. The effects of activities on climate change have essentially been displaced from both local authority and Environment Court attention, as a result of s 70A and s 104E of the Act.

I acknowledge the valid degree of debate about whether climate change is best addressed at the national level and through separate legislation (the New Zealand Emissions Trading Scheme or ETS, and/or a carbon tax), or whether there is a place within planning legislation for addressing both adaptation to, and mitigation of, the effects of climate change.

The Productivity Commission report concludes that "regulatory principles" suggest that many policy levers to *adapt* to climate change involve land use and so are best tackled at district and regional levels, while effective policy levers to *mitigate* greenhouse gas emissions are likely to sit at national level (at 430). I note that the Ministry for the Environment briefing to the incoming Minister for Climate Change advises that the New Zealand ETS alone will not drive all cost effective or otherwise "desirable" emission reductions, and recommends that a review of available policy options include land use policy under the RMA, supported by national direction.

A suggestion I make is that the interface between national and local regulatory responses to *mitigation* could be set through a national planning instrument. For example, a national planning or environmental standard could generally permit activities necessary to mitigate climate change, such as forestry, while restraining regulation against activities seen to be adequately addressed through the likes of an ETS, or the recently proposed Zero Carbon Act (Parliamentary Commissioner for the Environment *A Zero Carbon Act for New Zealand* (March 2018)). But to have a wholesale 'carve-out' from the RMA of the effects of activities, on what is undeniably the most significant resource management issue facing humanity in the 21st century, does seem anomalous.

Finally, as to pt 2, I would also suggest that there may a place for expression of the principles of resilience and adaptive governance as discussed above. A step in that direction might be to elevate the current s 18A “procedural principles” into this Part of the RMA, as matters which all persons exercising functions and powers under the Act must take steps to implement in practice. Resilience at the broader level (i.e. planning to better withstand the increasing severity and frequency of environmental stresses and natural hazards) also needs to be addressed as a matter of considerable, if not national, importance. This is again a priority that is broader in scope than “the management of significant risks from natural hazards” as currently expressed under section 6(h).

URBAN VERSUS NATURAL ENVIRONMENTS — SEPARATE DOMAINS?

The Productivity Commission report records a majority view that separate legislation addressing the urban and natural environments would be a bad idea, given the inextricable relationship between activities in an urban context and our natural environment more generally (at 377). That said, the report records a submission by Associate Professor Ken Palmer (to the draft report) that the “bundling together of objectives for land, air and water regulation under s 6 (matters of national importance) and s 7 (other matters) has been confusing and lacking in clarity” and that “with effective definition, cross reference and recognition of other consequential factors, separate and complementary objectives for the built and natural environments could be maintained in legislation” (at 375).

In my view, it is artificial to pretend that treatment of the urban and natural environments under RMA either can, or should be, the same. With respect, I personally agree with Ken Palmer that there has been a lack of effective focus on either ‘domain’ under RMA, through conflation of the concepts, and precepts that should apply to each.

As the Productivity Commission report puts it (at 426):

The natural and built environments require different and distinctive regulatory approaches. The natural environment needs a clear focus on setting standards that must be met, while the built environment requires assessments that recognise the benefits of urban development and allow change. Current statutes and practice blur the two environments, and provide inadequate security about environmental protection and insufficient

certainty about the ability to develop within urban areas. Rather than attempting to regulate these different issues through a single set of objectives and principles, a future planning system should clearly distinguish between the natural and built environments, and clearly outline how to manage the interrelationship between the two. To support an integrated approach, these sets of principles should sit within a single planning and resource-management Act.

Conversely, the recent report: Greg Severinsen and Raewyn Peart *Reform of the Resource Management System* (Environmental Defence Society, Working Paper 1, February 2018) applies a ‘thematic’ model and records the risks inherent in any domain, ‘sectoral’ or ‘spatially’ based approach to resource management (at 21). The domain in which the rural environment resides would also need careful thought.

I acknowledge these points but also note the substantial risks running the other way. The lack of clear direction within the Act regarding urban planning has reached a point where some commentators argue that the RMA is no longer ‘fit for purpose’ in an urban context, and arguably never was. Recent moves under the RMA to sharpen the focus on the urban environment are belated responses to that concern (in particular, the Ministry for the Environment *National Policy Statement on Urban Development Capacity 2016* (October 2016), and the 2017 amendments to ss 30 and 31 of RMA requiring all local authorities to plan to ensure there is sufficient development capacity in relation to housing and business land).

The level of frustration over the performance of our resource management system in the *urban* domain (affordable housing in particular) has reached the point that we risk eroding important principles that should remain in place to protect the *natural* environment. We have also witnessed the generation of a range of special legislation directed at the provision of housing, which undermines the initial conception of a “one-stop shop”, as well as aspirations for integration across the system more generally (Simon Berry, Helen Andrews and Jen Vella “The Death of the RMA by 1,000 Cuts – the Next Two Incisions” (April 2017) Resource Management Journal

In this regard, I note a degree of irony in the Supreme Court’s observation in *King Salmon* that “the RMA attempted to introduce a coherent, integrated and structured scheme” in place of planning and environmental legislation that

had become “fragmented, overlapping, inconsistent and complicated” (at [9]). To stem this impetus toward ever greater fracturing of the system, a model of clear but separate objectives for the urban and natural environment domains within the one Act may better retain scope for an integrated response, while also directing more targeted focus on the quite different requirements for sustainable management of the natural and built environments.

With that reasoning in mind, I suggest that the equivalent of what is now set within pts 3–5 of the RMA (duties and restrictions; functions, powers and duties; and, standards, policy statements and plans, respectively) could be reframed so as to be better directed, if not divided, as between the urban and natural environment domains. Under this approach, the pt 2 matters would both prevail over and pervade both domains, but revised in the manner proposed above.

To reduce the current degree of duplication in function within ss 30 and 31 of RMA, regional councils could be allocated *primary* responsibility for the natural domain; and territorial authorities for the urban. An exception would be provision for infrastructure, whereby a shared role may be more appropriate given the desirability of regional coordination of bulk infrastructure provision, and the need to ensure effective integration between infrastructure and land use planning.

An alternative variant on this approach would be less structurally delineated between local authority functions, but in an otherwise similar vein. To foster integration between land use planning and infrastructure, the Productivity Commission report recommends the preparation of *regional* level “spatial strategies” (more commonly known as “spatial plans”), focussed on the built environment, and regional policy statements, focussed on managing and protecting the natural environment (at 294).

District plans would presumably be required to give effect to both regional spatial strategies and regional policy statements so that they are each a formal part of the planning hierarchy. This can be contrasted with the situation in Auckland, where alignment between the Auckland Unitary Plan and the Auckland (Spatial) Plan became, and remained, a point of some contention.

As a final thought on this topic, a reformed RMA could retain application of the “bottom line” approach to the natural domain, as evidently envisaged for the RMA from the outset (*King Salmon*, at [38]–[41] and [107]–[108]). The

overall judgment approach could in turn be expressly provided for in the urban domain, where greater scope for the weighing the “relative significance or proportion” of the competing considerations within pt 2 may be warranted, even essential.

INTEGRATION

Previous reviews comment on the range of legislation currently operating within our resource management system and the apparent lack of integration between the statutes involved. They have divergent purposes, different agencies are responsible for their implementation, and the respective processes for public engagement do not always align. By way of example, provision for a given infrastructure project in a Long-Term Plan or Regional Land Transport Plan does not guarantee its implementation through appropriate provision under an RMA planning instrument. An RMA plan may preclude what the other instruments promote or, conversely, assume provision of infrastructure for which no funding is set.

The New Zealand Council for Infrastructure Development (now Infrastructure New Zealand), proposed an “integrated Planning, Infrastructure and Local Government Act”, combining the planning functions of the RMA with the investment functions of the Local Government Act (LGA) and Land Transport Management Act (LTMA) (New Zealand Council of Infrastructure Development *Integrated Governance Planning and Delivery*, (August 2015)). By contrast, the Productivity Commission report proposes that the solution is not to combine the different Acts into one “omnibus piece of legislation” (at 288), but instead to improve linkages between the legislation, and the processes through which the planning instruments under each Act are prepared.

While I tend to agree with the latter approach, in my view, this would need to cut both ways. For example, just as district plans should allow the effective implementation of a spatial plan (or indeed Long-Term Plan prepared under the LGA), so might Long-Term Plans be required to give effect to RMA planning instruments. For example, there would seem to be little point in zoning for areas of intensive housing if inadequate provision for the ‘three waters’ and transportation infrastructure is made under LTMA and LGA planning regimes.

PLANNING CLUTTER

This leads to my next point. We clearly have, what the Productivity Commission report refers to as, a bad case of “objective overload” in our planning instruments (at 99). The degree of discretion conferred through the very broad provisions and definitions under RMA (the definition of *environment* in particular) gives local authority planners effective ‘carte blanche’ to plan *ad nauseam*, generating what former Environment Minister Simon Upton once referred to as “telephone directory” scale planning instruments.

The assessment criteria for subdivision and development within one district plan I recently encountered runs to some 140 pages. In my view, this degree of planning clutter is at the very core of general public frustration with the RMA. Whether through lack of Central Government direction from the outset, or inferior implementation practice by local authorities, we simply must address this issue. While some district plans are considerably more concise, the reality is that no one would ever read an entire planning instrument under the current pedigree — including planning professionals, let alone the general public. They are impenetrable. As such, they are not effective and cannot be in promoting the environmental outcomes envisaged when the RMA was first conceived.

In this respect, I refer back to the issue of adaptive governance addressed earlier in this article. As I see it, a significant driver of the current inertia in our resource management system arises from the simple fact that, in order to change a planning instrument, there is such an excessive body of text that must be confronted. If we do not resolve that hallmark of the current system, no reform will be effective. Fewer, simpler and clearer objectives, policies and rules should be the ideal.

With a better-defined set of statutory principles and objectives directed to the urban and natural domains, as well as stronger demarcation and less duplication between district and regional functions, more succinct, targeted and focussed planning instruments could result. That may better enable local authorities, individually and collectively, to more readily respond and adapt to the outcomes of monitoring and evaluation, as well as to changes within natural and built environments over time.

A further option could be that, where there is a national planning instrument addressing a matter of national significance, there need not be *both* a district and

regional level plan (or policy statement) also addressing that issue. A three-layered hierarchy of RMA planning instruments seems unnecessary, noting the extent to which lower order instruments have tended to ‘parrot’ the higher in recent times in any event.

PUBLIC PARTICIPATION AND THE ROLE OF THE ENVIRONMENT COURT

A fundamental principle inherent within the RMA from the outset was that public involvement in planning processes would result in better resource management outcomes (*Murray v Whakatane District Council* [1999] 3 NZLR 276 at 279 and *Westfield NZ Ltd v North Shore City Council* [2005] NZSC 17 at [46]). The progressive erosion of provision for public participation in RMA processes has been a long-standing concern expressed by many RMA commentators, and by the RMLA itself in response to more recent reform initiatives.

It has always been the case that very few applications for resource consent, in percentage terms, are publicly notified (between 2 and 3 per cent in 2012–2013 (Ministry for the Environment *Resource Management Act Survey of Local Authorities 2012/13* (April 2014) at 31). The current provisions, as inserted through the Resource Legislation Amendment Act 2017, are needlessly complex. They sit alongside difficult concepts such as “deemed permitted activities” and provisions targeting “boundary activities” where, previously, a written approval from an adjoining neighbour would have obviated the need for even limited notification in any event.

The exclusion of provision for public notification and Environment Court appeals on residential developments and subdivisions (other than for non-complying activities) has also generated substantial concern within the resource management community generally, not least for applicants who essentially lose any right of appeal against a decision of a local authority to refuse consent.

I suggest that we go back to basics and provide for an all-embracing opportunity for public participation in relation to the preparation of planning instruments. The notification tests as set in 2003 (introducing limited notification) were tolerably simple, clear and, in my view, appropriate. To the extent since reversed, a presumption in favour of public notification of resource consent applications involving the natural domain might be reinstated.

There simply is not the space within this paper to do justice to the many important contributions to the role of the Environment Court in plan preparation (for example, Derek Nolan, Bal Matheson, James Gardner-Hopkins, and Bronwyn Carruthers "A better approach to improving the RMA plan process" (2012) 8 RM Theory & Practice 63; Laurie Newhook "Current and recent-past practice of the Environment Court concerning appeals on proposed plans and policy statements" (2013) 9 RM Theory & Practice 241; Derek Nolan, Bal Matheson, James Gardner-Hopkins, and Bronwyn Carruthers "Faster, higher, stronger ... or just wrong? — Flaws in the framework recommended by the Land and Water Forum's Second Report" (2013) 9 RM Theory & Practice 252). Nor to the topic itself.

What I would say is that for all the 'bespoke' or alternative planning processes I have ever seen or experienced, I am yet to encounter one that is, in my opinion, more efficient and effective than the conventional First Schedule route, providing for merit-based appeals to the Environment Court. This is particularly evident given the manner in which such appeals have been progressed by that Court in recent years. In saying this, I gauge efficiency and effectiveness not just in terms of the time and cost associated with preparing the planning instrument itself, but relative to the resource management outcomes for the district or region concerned, over the 10 or more years it may be in force.

I acknowledge the truly heroic completion of the Auckland Unitary Plan process by the Independent Hearings Panel, appointed for that quite exceptional situation. As others more learned than me have observed, however, and despite genuine attempts by the Panel to minimise this impact, very large components of the general public were effectively 'burned off' by the frenetic, even brutal, pace of that process. With respect, the high quality of the outcome is testament more to the exceptional skills of the Independent Hearings Panel than the inherent attributes of the process, in terms of basic design.

Personally, I cannot see the advantage in the "single-stage" Independent Hearings Panel proposal promoted by the Productivity Commission report, that would replace merits-based appeals (ch 8). We already have an independent and expert, as well as experienced and publicly funded, entity with constitutionally appropriate security of tenure, available to ensure that planning instruments both promote and implement the purpose and provisions of the RMA. This is, of course, the Environment

Court. Building on that theme, if a matter is truly of national significance, and needs to be determined with priority, why not directly refer it to the Environment Court, rather than appointing a 'one-off' Board of Inquiry that does not have these attributes, through a procedure that has become notoriously expensive to administer?

A potential option to refine the Environment Court's role in the preparation of planning instruments, should this be considered desirable, might be to focus merits-based appeals on the test in s 32(1)(b) of the RMA. Under this refinement, the Environment Court would primarily confine its substantive review to the extent to which the broader provisions of a planning instrument are the most appropriate way to achieve its objectives. That would leave the local authority largely free to set the high-level policy direction (i.e. the objectives) of that planning instrument, in a manner accountable to its electorate.

The Environment Court might, under that option, have something close to a judicial review role whereby, provided the objective set by the local authority was within its jurisdiction (*intra vires*), and not demonstrably unreasonable, it would remain undisturbed. This role and approach would arguably be consistent with the principle that the Environment Court is not a "planning authority", in the broader sense of that term (refer *Federated Farmers of New Zealand (Inc) Mackenzie Branch v Mackenzie District Council* [2014] NZHC 2616 at [121] to [123]).

MONITORING AND ENFORCEMENT

One quite alarming feature of RMA implementation is the relative lack of effective oversight of compliance with resource consent conditions (refer to outputs of research conducted by Dr Marie Brown in 2014, as presented during the RMLA 'Conditions' Roadshow in July of that year). Whether due to a lack of resourcing, political will, or "agency capture" (EDS Report at 56), the reality is that local authorities have seriously struggled in this context.

Despite that point, the Productivity Commission report "on reflection" recommends that regional councils retain the primary responsibility for setting environmental standards, and their monitoring and enforcement (at 383). I respectfully suggest that the Environmental Protection Agency's role under the RMA be extended to include oversight of the day-to-day monitoring and enforcement

function undertaken by local authorities, in similar fashion to the role of the Auditor-General regarding their financial planning responsibilities under the LGA. I suggest this in preference to the current predominant function of the EPA, under RMA at least, essentially comprising a 'processing house' for proposals of national significance.

CONCLUSION

I will conclude by firstly reiterating the degree of humility with which the suggestions outlined in this article are advanced. The more learned and experienced panellists within the Founders Debate rightly recommended that a fully independent panel of experts be appointed to review the RMA in order to address the issues canvassed in this article and during that debate. Significant contributions are being made to the cause, not least through the Law Foundation-sponsored project currently being progressed by the Environmental Defence Society. I am very conscious of at least one glaring omission in the coverage of this paper, as to the manner in which Mātauranga Māori is addressed within the system. Another would be the allocation of finite resources.

Readers will no doubt have their own views as to the priorities for reform attention and potential options to address the issues at stake. I should by no means be taken to suggest that there is some 'silver bullet' within the range of suggestions made in this paper, but instead seek to steer the conversation towards solutions, building upon the background of extensive review and assessment of existing RMA performance, by the many other commentators and agencies to which I have referred.

In that spirit, I propose an emphasis on both stability and resilience within a reformed RMA that retains the core principle of sustainable management, but more deliberately directs the system towards addressing what really matters. Clearer objectives, as well a sharper delineation between the built and natural environments and between local authority functions, should promote greater resilience within the system, and better environmental and economic outcomes. This approach would, at the same time, enable retention of considerable scope for effective public participation, within a system that also retains a central role for the Environment Court as an institution separate from Government, reflecting the constitutional significance of environmental regulation and decision making.



Get out of the dog fight ...and into the spotlight.

Showcase your company in RMLA's

Resource Management Directory of Professional Services

Contact us to place your ad today

karol.helmink@rmla.org.nz