



Evaluating the environmental outcomes of the RMA

A report by the Environmental Defence Society

June 2016



The purpose of this project is to explore whether the Resource Management Act 1991 (RMA) has delivered desired environmental outcomes for New Zealand. It is intended to complement wider assessments of the efficacy of the Act. The project is focused on gathering the best available information on the state of the environment in New Zealand and the influence of the RMA on that state. This evidence is intended to help enable an informed discussion on the future of the RMA.

The RMA was the first legislation internationally to enshrine the concept of sustainability in its overriding purpose which is 'to promote the sustainable management of natural and physical resources'. Now in its 25th year, the profile of the Act remains high amongst observers of environmental and economic management and it is highly visible compared with other legislation. Often

amended and much-discussed, the Act's impact on economic and environmental outcomes is a common topic of conversation, although more the former than the latter.

Often missing from this discussion is an empirical element. The critical issue really is, has the RMA delivered on its environmental goals and if not, why not? This is the key question that this report seeks to answer.

The Resource Management Act has jurisdiction over many of the impacts of human activities on New Zealand's fragile island ecosystems, exceptional landscapes and unique wildlife. This report concludes that the environmental outcomes of the RMA have not met expectations, largely as a result of poor implementation, but also due to a wide range of other factors. Addressing air discharges, most point source freshwater discharges, implementing mitigation and offsetting to address unavoidable impacts, standardising decision-making and providing a framework within which most communities can function are all achievements it can claim.

The effectiveness of the RMA would seem to have been greatest where community aspirations are more easily reconciled with extractive interests, but has been weakest where resources are past comfortable allocation limits. The Act has been strongest on adjudicating individual permitting functions, and weakest on overarching management of cumulative effects and other longer term strategic issues. As a result, it has largely failed to achieve the goal of sustainable management to date. The key issues are identified below. Some are symptoms of other key issues – they are all linked:

1. While the RMA has brought together a lot of decision-making processes, **it could be more integrated**. There are still key exclusions that should be better joined up to enhance overall environmental outcomes.
2. A **lack of effective strategy and oversight** of decision-making has reduced the potential to protect environmental values, including the capacity to manage cumulative effects.
3. The **incorrect jurisprudence** related to the 'overall balance' approach undermined the potential for environmental bottom lines to be applied. The reset of the case law and other amendments are likely to see this improve.
4. **Agency capture** of (particularly local) government by vested interests has reduced the power of the RMA to appropriately manage effects on the environment.
5. A **lack of national direction** has limited the potential of the RMA system to effectively and efficiently achieve its environmental goals.
6. **Agency capacity** has often been insufficient to successfully implement the RMA and opportunities for central government to provide financial and logistical support have generally not been taken.
7. **The design of implementing institutions and allocation of different mandates** requires systematic review to ensure it is the best means of delivering on statutory aspirations.
8. **Rigorous evaluation and monitoring of outcomes has been limited**, eroding the potential for adaptive governance and robust implementation.

9. **A narrow range of instruments** has been employed to generate behaviour change which, in many instances, has not been fit for purpose. Better outcomes are likely possible through employing a broader range of instruments, including economic instruments.

10. Future reform of the resource management system for New Zealand should proceed only where the anticipated improvements are certain and where any changes are **based on robust evidence**.

The resetting of case law through King Salmon and the ongoing improvement in planning, availability of national direction and rising public expectations signal that the potential of the Act is only just being unlocked. The RMA is the flashpoint for New Zealand's efforts to grapple with sustainability and it would seem we have some work to do.

This challenge is far from dissipating. Projected population and economic growth will only sharpen pressures on the environment, and restructuring of economic systems will be required to achieve genuine sustainability (such as 'curbing the appetite of the affluent').¹ We must recognise the current failings of the RMA and act upon them, to marshal in a new era of more genuine adoption of sustainability.

¹ Benidickson et al, 2011