



omcshane@wk.planet.gen.nz
www.RMAStudies.org.nz

Centre for Resource Management Studies

158 Rangiora Road, RD2, Kaiwaka
Northland 0582, New Zealand
T 64 9 + 431 2775 F 64 9 + 431 2772

RESOURCE USE AND MANAGEMENT

THE ROLE OF THE DEPARTMENT OF CONSERVATION AND THE NEED FOR CHANGE

The Background to this Report

The Centre for Resource Management Studies is presently working on the reform of the Resource Management Act (“RMA”).

However, there is little point in setting the RMA to rights while it applies to just under half of New Zealand's land area, and while the other half is effectively under the control of the Department of Conservation. While somewhat more than half the land remains in private hands and subject to the RMA, the Department of Conservation (DoC) continues to seek to control more of this land by designating or seeking to designate huge areas as significant natural areas or as ecological units – all without compensation.

The “Conservation Estate” which is home to probably half of our natural capital in terms of agriculture, forestry, tourism, recreation, minerals and petroleum is controlled by a government department which has no responsibility or authority to promote the economic development of these resources.

It is difficult to see how New Zealand can improve its wealth while continuing to lock up half its land mass in Conservation Estate, and placing all the keys in the hands of a single government department, overseen by a Minister with a personal power of veto.



There are only limited channels through which to offer balancing or contestable advice to the Minister, and DoC staff always have the last word.

We should have learned something from the great Soviet experiment in such styles of management.

If this land area were properly managed it could generate more than enough money to properly fund and staff the protection of the genuine conservation estate both within and outside the current boundaries, and to fund the purchase and protection of our historical and other cultural heritage.

Hence the Centre decided to prepare a report on how to restructure the management of Crown lands and the necessary reforms to their governance and administration.

This restructuring should be driven by two major imperatives:

1. The inherent conflicts between conservation of natural heritage, cultural heritage, general economic development, exploration, mining, recreation and tourism, should be resolved in an open and transparent forum, rather than behind closed doors.
2. The Crown Lands within the Conservation Estate belong to all New Zealanders and should be managed in the interests of the nation as a whole, rather than in the interests of one group driven by its own ideology.

Hence the Centre has commissioned Mr John Third to work with the Centre in preparing this report, which is based almost entirely on his work.



John Third is a consultant specialising in natural resources and government and corporate advice.

John Holds a B Ag Sc from Massey University and as Principal of Telford Farm Training Institute covered senior roles in, land management and vocational training. He proceeded to executive management roles with in MAF and Coal Corp before establishing Guinness Gallagher Corporate Advisory in 1993

Guinness Gallagher has advised a wide range of government and private sector clients both within New Zealand and Internationally ranging from treaty settlements, bid management, corporate management and restructuring, corporatisation and privatisation.

John's hands on experience during the development of these agencies and his experience in advising clients with interfaces with these agencies places him in a good position to prepare this report.



Introduction

To understand how we have got to where we are and why reform is so urgently needed, we need to go back to the genesis of the Department of Conservation (“DoC”) and the Ministry for the Environment (“MfE”) with the passing of both the Conservation and Environment Acts in 1987.

This was a time of considerable reform in New Zealand following the economic crisis inherited by the Lange Labour government following their election in 1984. The programme of reforms covered all aspects of the country’s economic and resource management, in particular the establishment of DoC and MfE and the passage of the RMA.

In the establishment of the two new departments and the enactment of the RMA, some elements were not fully thought through and went astray. That failure in itself is understandable; the failure to review and remedy these failings is not.

In retrospect, many good and progressive changes occurred, but as could be expected with few precedents to follow, there were a number of mistakes made that are now well overdue for review.

Genesis of Land and Natural Resource Reforms

Prior to 1987 the Crown held land in a number of departments that had multiple, and at times, conflicting roles.

For instance the Lands Department and New Zealand Forest Service had significant land holdings with conflicting activities.

The New Zealand Forest Service had responsibilities for the preservation of native forests while on the other hand they were managing the harvesting and clearing of native forests.

Likewise the Lands Department had responsibility for protection of natural lands, including national parks, while at the same time clearing and developing land for farm settlement.

The intent of the reform was to separate out the protection of land and forestry from the development and commercialisation of these resources. The land and indigenous forestry deemed for protection was to be put into one agency (DoC) and the other land and forestry was to be put into two separate State Owned Enterprises (“SOEs”) – Landcorp and Forestry Corp.



In the end the reforms saw the exotic production forests sold, the indigenous forests retained by the Crown, and the productive farmland transferred to Landcorp.

At the same time the Government rationalised its environmental protection policy and operations into two new agencies, DoC and MfE.

The guiding principles of the reform package at the time were based upon separate and contestable advice streams to Government, along with the principle of separation of policy from operations.

The intent of the reforms was to establish a triumvirate of departments each with clear and separate roles. These were to be the three agencies of: -

- The Ministry for the Environment;
- The Department of Conservation; and
- The Ministry for Land and Economic Development

The Government was then to have equal advice from both the Ministry for the Environment and the Ministry for Land and Economic Development, and to balance the advice given.

The Ministry for the Environment (“MfE”)

The MfE’s role was to advocate solely for environment protection matters and to tender policy advice in that regard to Government. Accordingly the Environment Act is written so that neither the Department nor the Minister are required to consider any other aspect but the environment, and to advocate only in consideration of environmental matters.

There is no requirement for the MfE to consider economic, social, or other matters beyond environmental matters.

The Department of Conservation (“DoC”)

This was to be the operational department charged with the management of the conservation estate. Under the guiding principles it should have nothing to do with advice but simply manage the conservation estate, on behalf of the Crown for conservation purposes, including National Parks and special purpose reserves that have specific requirements under the Reserves Act. Unfortunately the management of parks for recreation purposes also conflicts with conservation goals and the result has been unresolved conflicts between those who seek access to the national parks for recreation purposes, and those who seek to keep people out of the parks to protect native flora and fauna and other conservation values.



The Ministry for Land and Economic Development. (“MED”)

This was the third intended department and was to provide the balancing advice stream to Government. Its legislation was to be rewritten to balance the MfE advice because it was authorised to advocate solely for land and economic development and the national interest and was not obliged to take into consideration any environmental matters.

The rationale was that the Government would then be presented with balanced arguments and could make the appropriate decisions on matters brought forward with respect to the Crown’s estate.

In other words the total package would be an exercise in good governance.

What Happened?

As noted above, the rate of reform was high, and various elements of this reform package were distorted in the hurly-burly of change and the political expediencies of the time.

The Department of Land and Economic Development was not established at the same time as DoC and MfE, due to the establishment of the Landcorp SOE. This addressed property ownership and management elements, but not the policy of balance of advice.

The old Ministry of Commerce was reconstituted, expanded and renamed as the Ministry of Economic Development (MED) much later, on April 1st 2000, early in the first term of the Clark Labour Coalition Government. Rather, under Jim Anderton as Minister, MED became a “super policy department” housing the remnants of the Ministry of Energy, Minerals, Radio Spectrum, and Commerce.

In spite of its name, the new Ministry did not receive the statutory obligation to advocate for land and economic development. Crown minerals is now advocating for minerals and has been winning some cases before Council hearings, which DoC, or the Forest and Bird typically appeal to the Environment Court, or to the High Court.)

Nevertheless, the MfE’s legislation proceeded, with its sole focus on environmental matters, with no requirement, indeed no authority, to consider other matters such as social, economic, or even human issues. Further, this new Department was given responsibility for the administration of the RMA when it was finally introduced in 1991.

When the Department of Conservation was established by the 1987 Conservation Act there was a late but significant “minor” amendment added to Section Two.



The amendment directed the Department to:

“... advocate the conservation of natural and historic resources generally...”

and

“..... advise the Minister on matters relating to any of the above functions or to conservation generally.”

DoC was originally charged with no more than managing the conservation estate while taking account of conservation "values". At the last moment these amendments gave the Department the additional power to advocate for conservation values. (The significance of this is further addressed below.)

Further, as the Government broke up the old departments, and formed new ones, various parcels of land did not fit comfortably with any of the new entities, and DoC became the landholder of last resort for "left over" Crown land.

This land is known as "stewardship land" and DoC was designated the single "steward". There is no statutory differentiation between various classes of land and the relevant legislation charges the Department to:

“... manage, for conservation purposes, all land and other natural and historic resources held under the Conservation Act.”

This hugely increased the amount of Crown land now subject to administration for conservation values only. Most countries aspire to have about 10% of their land mass under conservation management. Once the High Country Tenancy review is complete DoC will be responsible for the management of about 50% of New Zealand's land mass and the natural resources within that area.

The goal of "resource management" under the control of the DoC is subject to the "objective of conservation which is specifically the only purpose of the conservation Act 1987".¹

¹ Fisher, D E 1989. "Environmentalism, Policy Factors and the Courts in New Zealand". Australian Universities Law School Association (AULSA) Conference Paper, Wellington.



The Effects of the Partial Reform on the Department of Conservation

Conflicting roles within DoC

One source of conflict within DoC is that it is required to manage land for full conservation value irrespective of the nature and source of the conservation value of the land.

For example, some of the lands under DoC management are the sites of previously abandoned rubbish dumps, to which DoC now dutifully applies full conservation values! They are obliged to do so because their empowering legislation does not differentiate between the values or rankings of abandoned rubbish dumps and pristine National Parks.

Under its legislation (or at least as interpreted by DoC), DoC is prohibited from considering any non-conservation issues such as regional development, employment, economic development, economic value, or alternative land uses.

Potentially 50% of New Zealand is managed by a department that is interpreting its own legislation, is not accountable to any democratic process, and whose decisions avoid all transparency or accountability.

No country can afford to have half its landmass locked up inside a conservation estate, particularly one managed by an organization that is fettered by flawed legislation, unbalanced in design, inappropriate to the management of stewardship land, and which is particularly inappropriate to the management of land areas which exhibit none of the characteristics of a genuine conservation estate.

Our National Parks were intended to provide for recreation and enjoyment for visitors from both New Zealand and overseas. As in most countries, many of these highly valued sites which need careful management to maintain their appealing qualities, often house important flora and fauna or other sites of scientific, historical, and other significant values. In the US, Yellowstone Park is a frequently quoted example of the need to manage such conflicts. New Zealand has many examples of its own including Milford Track and our geothermal areas.

These local land use issues need to be moved to a forum where the decision-makers are exposed to informed and transparent democratic process, and where all aspects of land use can be considered in a balanced manner and in a transparent environment.

In the first instance this could be a Commission of Crown Lands established specifically to receive such submissions from all interested parties and to create maps and supporting documents which record the resources captured by these Crown owned lands.



Once these “rankings” and “classifications” are determined, their ongoing management could be transferred to Regional Councils operating under the RMA. However, before this could take place, the general framework of the RMA, and especially the tasks, functions, and responsibilities of Regional Councils, would have to be tightened considerably. But there are many reasons for undertaking such reforms independently of this particular issue.

This would provide the advantage that conflicting claims over land use would be subject to well established processes including appeals to the Environment Court and the other courts as appropriate. There are presently no routes of appeal against decisions of DoC or its Minister.

Substandard Management Structure and Resources within DoC

DoC is a curious organisation and its genesis tends to establish the competency of its ongoing management.

With the split up of the Lands Department and the New Zealand Forest Service the staff of those organisations formed the establishment staff of the new departments and SOEs. Those staff with confidence in themselves, or who backed themselves as managers with economic and commercial skills, headed directly to the SOEs where they saw the opportunity for “commercial” returns and related salary packages.

The net result was that the staff who sought refuge in the new government departments were those who were “environmental” or other single issue zealots, or those who had no confidence in holding down positions in commercial enterprise. They sheltered in the new departments and clung to their tenure arrangements.

Environmental specialists (often with personal agendas) or who had no initiative or confidence in securing private sector work dominated this group.

Further the infiltration of these departments with such single issue “zealots” has intensified rather than reduced over time and there are frequent examples of DoC managers acting as spokesmen for NGOs such as Forest and Bird with clear conflicts of interest and continued blurring of the boundaries between them.

Lack of True Managers with Genuine Management Skills

In general terms, these narrowly focused scientific specialists are the anthesis of “managers”.

Managers are required to make decisions without complete information over a wide range of specialist areas including operations, planning, HR, and finance within an organisation.



Scientists by comparison, are motivated to seek more and more detailed information within their own narrow specialist area.

Consequently DoC, as an organization, started with low management skills and has been continually riven with management problems. The organisation was largely bereft of management skills, and has been dominated by narrow interest specialist zealots and refugees from private sector work.

DoC management failures are legendary, ranging from the Cave Creek platform collapse, to the death of rare and endangered Kakapo because the Department was so focused on PR that they allowed dirty gumboots from pig farms to transfer infectious bacterium to kakapo enclosures in Fiordland.

Other examples include releasing cage reared blue ducks into the wild in mid winter. This is the time when food stocks are at their lowest. This low food level of available food had been further reduced where 1080 poison run-off had wiped out the invertebrate biota in the streams where their food is derived. Not surprisingly virtually all perished, weighed down as they were with radio transmitters. We could go on.

These problems are exacerbated by internal politics and academic arrogance within DoC which leads to a tendency to refuse advice from practical people with experience in the old Wildlife Division; people like Don Mertons who genuinely know what they are doing.

Many more examples are reported in the excellent *Conservation Strategies for New Zealand*.²

Problems with DoC Advocacy

We now return to the issues of DoC being enabled and specifically funded to advocate for conservation.

The small late amendment to the Conservation Act has had significant implications from a policy perspective and from a cost and management point of view.

DoC, driven by its academic theory, set about using this additional power to replicate the policy advice role of the MfE and began turning up to all hearings, meetings and policy discussions pointing to this “requirement” of their Act.

² Peter Hartley, *Conservation Strategies for New Zealand*, Tasman Institute, published by New Zealand Business Roundtable, 1997.



Since then, on the strength of this advocacy clause, DoC has participated in resource consent hearings regardless whether DoC land was involved, to district plan development nationally, and to significant Government meetings. This is in addition to MfE who have the principal role of advising the Government on environmental matters.

On the strength of the advocacy clause, DoC has replicated an entire policy agency of MfE within DoC

The effect is that Government currently has two departments, with overlapping statutory requirements, advising Government on conservation and environment issues. However, there is no balancing advice from any other department covering the social, economic, and national interest orientated advice.

To further the imbalance Government also receives advice from the Parliamentary Commissioner for the Environment – again with no balancing source.

This distorted situation is simply poor governance. It is also very expensive.

Conclusion on Inadequate reform of DoC

DoC as an organisation now administers more than 30% of New Zealand's land area³ and is expanding its focus into the marine environment beyond the foreshore.

In addition DoC has been vigorously pursuing the High Country Tenure Review, which will see still more land fall into its hands. This could see between 40% and 50% of New Zealand land under the control of a single government department. This excludes the large areas of private land DoC seeks to control through designations within District and Regional Plans.

The end result is an area of land greater than Switzerland being managed by a department with critical management failings and operating under flawed legislation.

DoC has neither the management competence, nor the capital or human resources, to manage its current estate, let alone an ever-expanding one.

No negative consequences for failure.

No one in DoC was prosecuted for the Cave Creek deaths because of the claimed excuse of "systemic failure". This conveniently ignores the reality that putting systems in place is the role of management. Where systems fail it is the responsibility of that same management who must then stand accountable. The disaster was used as an excuse to increase DoC's funding.

³ Soon to be closer to 50%.



Likewise, the failures in what should be its core competencies – the deaths of endangered wildlife arising from avoidable incompetence – also go unpunished. Indeed the more likely outcome is to have its budget increased.

The department's reward for failure is consistently an increase in its budget or claims for an increased budget.

DoC staff are faced with perverse incentives which reward failure and crisis – the opposite to those that drive quality performance, and the efficient use of resources.

Some examples of conflicts within DoC

DoC's current decision making process is totally lacking in transparency because DoC staff resolve these conflicts behind closed doors rather than in an open forum. This even applies to conflicts between natural and cultural heritage such as the arguments over the baches on Rangitoto. The advocates of cultural heritage wanted the baches retained as part of our cultural heritage while the advocates for natural heritage wanted their removal to restore Rangitoto to its "natural" estate. There was no transparent democratic platform where these conflicts could be argued. Instead the decision was made behind closed doors and with no avenues for challenge or appeal.

Another example is a proposal to mine some very high quality coal that in part intrudes into stewardship land administered by DoC. This would require temporary use of some 13 ha of stewardship land. This land is simply being stewarded by DoC on behalf of the Crown because the Crown had nowhere else to put it.

DoC has 1.9 million ha of land in this area yet has spent many hundreds of thousands of dollars opposing the application for mining even where it finally admitted it had no technical reason to continue to oppose the consent. Nonetheless it continues to fight against the issuing of access to mine. The mine contains some \$700 million dollars worth of coal that could be developed for the benefit of the local and national economy. \$200 million of that value would accrue to Crown's own mines by using this coal to upgrade the value of their own resource.

There is no forum to balance this economic and national interest value with the value of the 13 ha of stewardship land. DoC staff members, through their control of advice to the Minister solely determine, whether or not access is granted, and only according to the Act with its single-minded focus on "conservation values".



Similarly, the unilateral and singular primacy accorded to conservation issues over all other aspects, creates the same problems in the management of the marine environment.

One example is the well-published closure of fisheries due to the accidental by-catch of Hooker Sea Lions in the Southern Ocean. DoC is wrongly promoting the New Zealand Hooker Sea Lion as the most endangered Hooker Sea Lion in the world.

The \$200 million squid fishery was prematurely closed when 17 Hooker Sea Lions were accidentally drowned by the squid fleet working in the Southern Ocean.

What is the value of a seal? These animals have rebounded very strongly in numbers under the absolute protection afforded by the Crown, and in some areas are close to being classified as pests. They are the “possums” of the sea and cause extensive damage, particularly to aquaculture operations. They have learned to arrive in large numbers to feast on the fish being pulled in by trawlers and provide major logistical problems for seafarers trying to avoid them.

Ministry for the Environment

MfE also has dual roles; providing policy advice to the Government and administering the RMA. This is clearly another example of poor governance, contravening as it does the basic good government principle of separation of policy and operation.

The MfE’s role under its legislation is to advocate solely for the environment and to take no account of other matters. Consequently its advice on RMA matters must inevitably be biased towards environmental protection in conflict with the Act’s permissive intent to support development, subject to environmental outcomes.

Again the basic principles of separation of policy and operation have been blurred by MfE’s dual roles.⁴

The Need to re-establish Balanced Advice and Decision Making.

A historical accident has distorted the Government’s environmental and conservation advice stream vis-à-vis its land use, and economic development stream. This unbalanced advice stream means the Government is failing its “Westminster” government requirement to take balanced advice and make even-handed decisions.

The entire area needs review.

⁴ These necessary reforms to the structure of the administration of the RMA will be the subject of a separate report from the Centre for Resource Management Studies.



Considerable time has now passed since the passing of the 1987 Conservation Act and a review is both essential and long overdue. This should not be confined to just DoC, but to the advice Government has to receive in relation to all resource management relating to all land use within the whole Crown estate.

This must address:

- the fundamental wording of the various relevant Acts,
- the powers and functions of the departments to both create and implement policy,
- the legislation (including the RMA itself) which presently allows and indeed encourages DoC to treat all land, including private land, (and increasingly the marine environment) as a prime conservation resource equivalent to the Conservation Estate,
- the current situation where DoC and MfE advocate for the closely aligned and overlapping issues of environment and conservation,
- the absence of any statutory requirement for balancing advocacy for development against both environment and conservation,
- the impact on the national interest of placing absolute primacy on the environment and conservation within these departments.
- the absence of any forum where economic growth and development and recreation values can be balanced against the environmental or conservation values.

This situation is contrary to the constitutional duty of “Westminster” style governments to ensure that even-handed advice is considered and balanced decisions are made.

To provide the balance of advice MED should have a statutory role to advocate for land and economic development, to match that of the MfE advocates for both environmental protection and conservation.

DoC should be excluded from advocacy as this represents a duplication of the MfE policy role and a clear distortion of the advice stream to Government.

MfE should be reformulated as the sole environmental and conservation policy department to fill the role of advising the Government with respect to environmental and conservation matters.

A new department responsible for administering the RMA separate from MfE should be established.



DoC's role in advocacy and district planning intervention

Firstly the right of DoC to advocate policy should be removed or very severely curtailed, as it does not fit within an operational department. It is being used as a means to fetter the use and enjoyment of private property rights without compensation. The fact that the legislation prevents DoC taking any consideration of issues other than conservation means that the use of private resources is biased towards conservation rather than use.

DoC is active. In the past 2004/5 year DoC participated in:

- *1,500 consultative processes, including formal and prehearing meetings.*
- *60 submissions on draft policy statements and plans.*⁵
- *190 submissions on applications for resource consent.*
- *1,100 applications for resource consent agreed without public notice (section 94).*
- *25 court or legal actions where other processes have failed.*

(Source DoC Statement of Intent 2005-8)

This is occurring in a wide range of areas, from freehold land being fettered by limiting land use under district plans, through to the closing of fisheries because of accidental deaths from marauding seals and other species.

Some years ago the Far North District Council published a proposed District Plan that took so much private land for “natural heritage” protection, that Council withdrew the whole Plan and started all over again.

Their revised plan gained widespread support from the local people and communities.

DoC and its government funded associates were not happy and have filed references to the Environment Court as follows:

Department of Conservation –	137 points of appeal
Royal Forest and Bird Society –	90 points of appeal
Environmental Defence Society –	57 points of appeal
TOTAL	284 points of appeal

⁵ This grossly understates the number of individual submissions. DoC counts each “stamped envelope” as a single submission. The package may include over a hundred challenges to the contents of a single proposed plan, as was the case with the Far North Proposed District Plan.



“Others”, who are typically local landowners and private citizens, have filed only 133 points of appeal, and about 35% of these actually support their Council against DoC and their government funded associates.

These appeals from outsiders, who want to reinstate the old Plan, outnumber locals by almost three to one. And yet these outsiders don't pay rates, don't vote, and of course they don't pick up any of the costs they impose on the local people.

Without these outsider interventions, Council would have to deal with only about 100 points of appeal, most of which could be easily managed at low cost.

Many of these proposed interventions by DoC have little to do with conservation as most of us know it. For example one of DoC's submissions to the proposed Far North District Plan sought to introduce a rule limiting employment on any site in the rural zone to no more than eight jobs for every four hectares of site area. This means that if you have only 7.9 hectares of land you cannot provide work on the site for more than eight people. That's only one wage earner for every two acres of land.

DoC should be confined to being no more than the manager of the conservation estate, as originally envisaged.

The land classes within the DoC estate should be clearly designated National Park scenic reserve, other reserves, and stewardship land. Each requires different rules and different management practices to deal in a balanced way with the values for conservation against the value for development.

While National Parks should be afforded appropriate protection, access to economic resources in other areas should also be given priority and made available at least where national interests are concerned or where net conservation gains can be demonstrated.

MED should be mandated to advocate for economic development and national interest issues to balance the policy advice of MfE.

The MfE has a conflict of interest in its role as policy adviser and administrator of the RMA. These should be separated as the RMA is a permissive act that says one can do any thing anywhere so long as they avoid remedy or mitigate effects on the environment, e.g land air or water.

MfE is required to apply primacy to environmental protection and is prevented from considering economic or other development values.



This inevitably distorts the administration of what was intended as an enabling Act focusing on allowing development while protecting environmental outcomes.

It is poor legislation.

Rational incentives for DoC to manage for conservation value

DoC needs economic incentives to provide access where reasonable and to secure other areas of high conservation value where appropriate. Currently it is unconstrained and continuously holding its hand out to lock up yet more and more of New Zealand's land and marine environment even though it demonstrably incapable of managing the land already under its control.

Further, once designated, the singular focus of its legislation on conservation matters more or less permanently sterilises other land uses for the land irrespective of its nature or history or applicability.

To this end we would propose an environmental defence fund be established which held perhaps elements of the current estate and provide a provision for certain cash reserves. From then on if DoC wanted to secure a high conservation piece of land or undertake significant conservation initiatives it would need to sell an area of lesser value to fund it.

As a department DoC must come to efficiently and effectively manage its resources, aiming at self sufficiency, rather than being on open-ended acquisitive behemoth demonstrably incapable of managing up to 50% of New Zealand's land area.

To that end, land that is Crown land, came under DoC management as "the land holder of last resort" needs to be either removed from DoC's stewardship, or operate under rules designed to ensure the land must be considered available for matters other than conservation.

Land should be made available to other uses where either strong economic value can be demonstrated or where net conservation benefit can be demonstrated.

Recommendations from this Report.

In summary the three key recommendations arising from this report are: -

- (1) Balanced advice should be provided to Government via the receipt of advice from a number of separate agencies or departments who would advocate for their own areas of interest such as, but not necessarily limited to:



- Environment
 - Conservation;
 - Natural Heritage;
 - Land development and rehabilitation;
 - Forestry and Agriculture;
 - Transport.
 - Crown minerals;
 - Maori claims and issues.
 - Energy resources;
 - Cultural Heritage
 - Parks and Recreation;
 - Tourism;
 - Management of Crown land resources – general principles (eg capital charges, taxes, rates etc.
- (2) Establishment of a separate agency to administer the RMA on a balanced basis;
- (3) The rigorous classification and ranking of the different classes of Crown land.

An Outsider's View.

The most comprehensive work in this field remains *Conservation Strategies for New Zealand* by Peter Hartley of the Tasman Institute, and commissioned by the New Zealand Business Roundtable in 1997.

Anyone interested in the field should read this comprehensive work. The analysis is thorough and wide-ranging and foresaw many of the problems, conflicts and failings identified in this report.

It is worth recording Hartley's conclusions and recommendations as follows:



Failings of Governance within DoC

Hartley writes:

“A remarkable aspect of the Conservation Act is that it charges DoC with preserving the intrinsic value of conservation assets, a concept that the Act leaves undefined.

We suggest the concept borders on being meaningless. ... An undefined, perhaps meaningless, objective represents an insuperable barrier to accountability. It effectively allows DoC to choose its own purposes within the general ambit of “conservation”.

Current statements by DoC of its purposes and activities:

- do not provide clear information allowing an accurate assessment of its effectiveness.
- do not show an appropriate focus on full costs and benefits obtained from the use of resources in the Department’s care.
- show a distinct tendency to see visitors to conservation areas as threats rather than opportunities to provide valued services to customer: and
- more generally reveal the pervasive problems and failures generated by the inappropriate policy goal of attempting to preserve “intrinsic value”.

Efficient Management of the Resource

Hartley writes:

“Conservation is a far from costless activity. Effective use of resources for conservation purposes requires a lot more than “locking areas away”. ... Maximizing conservation value as part of maximizing overall social value requires institutional structures that:

- Avoid the often unnecessary cost of single purpose use of resources;
- Take advantage, where practicable, of the superior efficiency, due to superior incentive structures, of private sector management; and
- Register the real costs and benefits of resource use decisions.”



Conflicts of Role and Clarity of Purpose

Hartley writes:

“To reduce conflicts of role and increase clarity of purpose (and thus accountability) the advocacy, policy and operational functions of DoC should be placed in separate organizations. The new policy development body should:

- Be independent of all existing government bodies;
- Ensure that conservation policy is consistent with the sustainable management objectives of the RMA;
- Consider reclassifying land according to IUCN categories (so as to provide a more effective and useful taxonomy of conservation areas); and
- Consider extending DoC’s capital charge to include the market value of the areas it manages.”

Historical Heritage

Hartley writes:

“In the case of historical heritage, regulatory and institutional approach to maximize the value that New Zealand gains from its heritage assets would incorporate:

- Separation of policy and regulatory responsibility from asset management;
- Separation of policy and regulatory responsibility for conservation of cultural heritage from other objectives;
- Removal of disincentive to preserve heritage assets, while ensuring equity and discipline in heritage assessments, by compensation for loss of value from heritage orders, listing and other restriction on property usage specific to, or with disproportionate effects on, heritage assets: and
- Permitting appropriate adaptations and multiple use of heritage assets.”



Summary of Policy Recommendations

In the concluding chapter Hartley writes:

“The major reforms suggested in earlier chapters can be grouped under the headings:

- Changes to the structure of the Department of Conservation and its controlling Act;
- Changes to the classification of the land areas;
- Reform of the DoC financing; and
- Alterations to policy that would make conservation more a part of all activities that use natural resources – so that conservation becomes better integrated into the economy rather than one of the major remaining “ghettos” of socialism.”

A Final Word from the Centre.

John Third’s analysis, written twelve years after “ Conservation Strategies for New Zealand” confirms Hartley’s findings and reveals that many of his concerns have been realised and his predictions have eventuated. Third has reached his own conclusions independently from Hartley, based on his own experience during the reform period and times since.

Hence two authors have reached almost identical conclusions and these coincide with the general conclusions reached by the Centre in preparing for its work on the RMA and the associated issues of resource management in New Zealand.

In conclusion the Centre wishes to reaffirm its conviction that New Zealand cannot expect to climb back to its earlier rankings on the OECD wealth tables if we continue to lock up half of our natural capital within an estate governed by a Government department driven by an unchallenged, meaningless, and undefinable purpose, and which wastes our human capital in lengthy and unproductive claims for the use, access to, and development of those resources.

Owen McShane
Director
Centre for Resource Management Studies