

Environmental impact assessment in new zealand assignment



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The purpose of this essay is to critically assess the approach that New Zealand has taken with the application of Environmental Assessment (EIA). The first part of this essay will identify and review the introduction of EIA in New Zealand and look at it's history. The next section will identify and discuss the purpose and principals of EIA.

The next part of the report will then outline the current application of EIA and its incorporation into New Zealand's law and policy. The final part of this essay will be an assessment of the approach that New Zealand has taken. History. Within New Zealand the impetus for environmental protection and associated legislation has been attributed to the Save Manapouri Campaign (Open Polytechnic of New Zealand 2008). This is a reasonable view in that the first real EIA were conducted in this campaign and the resulting outcry over the possible impacts was significant.

Michael King in The History of New Zealand (2003) said that “ it started a national debate on environmental issues involving...politicians, scientists, professional planners and members of the public” Certainly there is other evidence that points to much earlier impetus, in 1874 the Forests Bill Act was introduced into Parliament because of concerns about forest denudation and there were protests about the actions of The New Zealand Forest Service in the 1940's. Paul Cronin 3319860 There were many other mini movements and concerns over the century preceding the introduction of the EPEP.

In addition to these New Zealand forces there was a background of international environmental actions stemming from the 1972 United Nations Conference on Environment and Development Nations in Geneva, this

conference was held in a time of much change with Nations Worldwide Governmental bodies such as the United Nations and others started to become environmentally aware. There were other movements such as Greenpeace that were formed in this era. There were sometimes individual actions against proposed projects and in other cases there was legislation for EIA, (Peart, 2007).

This EIA legislation had its roots in America in the 1970's (ibid). This impacted in New Zealand with an audit of our environmental policies in 1980 by the Organisation for Economic Cooperation and Development (OECD). This highlighted the ineffectiveness of current policies (Peart, 2007). It is not the intention of the writer to list a complete history or catalogue of these groups merely to indicate the broadness of the influences that were the catalyst for modern day legislation and government policy. Environmental Protection and Enhancement Procedures (EP&EP)

Environmental legislation paving the way for Environmental Impact Assessments is relatively recent in New Zealand in its legislative form. In 1974 EP&EP were adopted by Cabinet. Whilst these were adopted by Cabinet they were never given any recognition in law. EPEP had a number of shortcomings as it only applied to government organisations or groups that required Governmental licences or received funding from Government (Ministry of Environment, 2005) (Boshier 1998). EIA reports were relatively rare with the number of reports averaging just nine per year from 1974 to 1985 (Wells and Fookes 1989).

Paul Cronin 3319860 There were significant barriers to the efficacy of EIA reports. These took various forms ranging from governmental attitudes that saw EIA as an intrusion in their areas through to legal inadmissibility issues due to the non legislative basis of EIA reports (Boshier 1998). These shortcomings were highlighted as mentioned before by OECD audit in 1980 and subsequent follow up to this audit lead to a review of the EP&Ep and the passing of legislation namely the Environment Act. Environment Act 1986 (EA)

This was a scaffold for environmental policy. The practical application of EP&EP was taken over by the EA. This saw the Commission for the Environment replaced with the Parliamentary Commissioner for the Environment (PCE) whilst this had some success the reality was that there was still in excess of 80 statutes and regulations that governed the management of land, soil, water and air in New Zealand (Peart, 2007). This was unwieldy and also without a co-ordinated approach it meant that EP&EP had not been applied on a consistent basis by Government.

There was too much leeway in the law. The then Labour Government identified a number of issues with the process at that time and came up with a regulatory approach which was introduced into Parliament called the Resource Management Bill, however this was not passed when Labour lost office. National decided to continue the bill but it was reviewed and changes were made the result was the Resource Management Act (RMA) which came into force in 1991 (Boshier 1998). Paul Cronin 3319860 Resource Management Act The RMA was enacted in 1991.

This was a significant period in New Zealand History as the politics of the 80's commonly referred to as Rogernomics had resulted in a huge change in the political economy of New Zealand. This legislation replaced 25 natural resource planning statutes and repealed over 150 other laws and regulations. According to Memon the overarching objective of the RMA is the promotion of sustainable management (Memon 1993). Simon Upton said on the third reading of the bill in parliament that “ The Bill provides us with a framework to establish objectives with a biophysical bottom line that must not be compromised.

Provided that those objectives are met, what people get up to is their affair. As such, the Bill provides a more liberal regime for developers. On the other hand, activities will have to be compatible with hard environmental standards and society will set those standards. Clause 4 sets out the biophysical bottom line. Clauses 5 and 6 set out further specific matters that expand on the issues. The Bill has a clear and rigorous procedure for the setting of environmental standards – and the debate will be concentrating on just where we set those standards” (Memon, A, Skelton, P. 002). This bill like other law promulgated in this time was to take an approach that was permissive rather than prescriptive thus meeting the dominant ideological beliefs at the time and the forerunner of other legislation that was designed to free the economy from the unduly heavy hand of regulation and allow the market to dictate and apply the true costs of environmental policy. This Hayekian type of policy was championed by organisations such as the World Bank and the OECD and is clearly evident when the recommendations for review of New Zealand's environmental policy are read.

These themes are reflected in further reviews which they conducted, OECD Environmental Performance Review Of New Zealand (n. d.). As with all legislation the intent and the outcomes can be significantly different, this can be explained by things such as poorly written law or Paul Cronin 3319860 judicial activism or unintended consequences of the law. The out working of the RMA seems to be contentious with descriptions such as costly, cumbersome and unwieldy often used in the media and in Government with reviews being planned; John Key says that “ The RMA is a key barrier (to economic growth).

It has created a climate of uncertainty around new development and has delayed decisions that need to be taken quickly. It gets in the way of new projects and sucks excessive money and time”, Connect with John, (n. d.). Thus we can see that there is significant discord about the RMA which reinforces the comments made about values and shows the tensions that such legislation plays upon. EIA Purpose There were many drivers for the introduction of EIA, these drivers are subject enough for a doctoral thesis as I am sure there have been.

As to definitions these are numerous as well, the following are a few that I have found that give some structure to what I have come to understand as the purpose for EIA. Justice La Forest defines EIA in its simplest form, as “ a planning tool that is now generally regarded as an integral component of sound decision making... As a planning tool it has both an information gathering and decision making component which provides the decision maker with an objective basis for granting or denying approval for a proposed development”, (1991).

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EIA assessments are a result of a fundamental belief that there is something that needs to be protected and that is the environment. This is a value based judgment which has wide acceptance throughout the developed world which has resulted in environmental policy and law being introduced as discussed earlier in this essay. So the purpose of EIA could be seen as a tool to solve conflict about benefits; social political and economic from the environment, Memon (1993).

This is in my belief a good principle and has worthy ideals, how well EIA meets those ideals however is subjective. In New Zealand EIA has a narrow approach EIA is the second tier approach of the RMA and it is based on making assessments of environmental impact after decisions are made. We see this in the belief for instance that Key espouses that the RMA is a barrier to growth; Key proposes for instance a solution for power shortages is that we build more power generation capacity. There is little thought given to the alternatives available.

Such thinking can be described as kneejerk reactions which are populist and have no real interest in what is best for the environment with economic benefit overriding concerns about environmental issues. However this shows the tension that environmental legislation is placed under. This tension is reflected in EIA reports in New Zealand. Current concerns for instance about the proposed transmission line to Auckland, with proponents pointing to the necessity of the line and opponents talking about health hazards and private property rights being eroded or not properly compensated.

How does EIA help resolve that tension? Well it doesn't really, although EIA is a values based tool the end result is that an EIA report on a project is completed and the bargaining begins, in some case it doesn't even get to that stage with Government having the ability to override the RMA process in certain circumstances, making EIA not worth the paper that they are written on. Thus the value of EIA is usually measured by the outcome that resource consents deliver.

This all leads back to the first definition of the purpose of EIA which is that EIA is a tool, however the planning for the project has started well before an EIA is undertaken with decisions having been already made about location, and the project itself, some of this is necessary without information about a location the environmental effects of a project are hard to quantify, this does not excuse prior planning or consideration being given to the project thus outlining the narrow approach of the RMA. Paul Cronin 3319860 Principles

To answer this question it is necessary to lay out some ideas around the principles of EIA. The following are a list of eight guiding principles that were listed by the Economic and Social Commission for Asia (ESAP) and the Pacific; Participation, Transparency, Certainty, Accountability, Credibility, Cost-effectiveness, Flexibility and Practicality, ESAP (n. d.) These principals or very similar are endorsed by a number of organisations including IGAE, the National Strategy on Ecologically Sustainable Development, ANZECC and the Commonwealth Environment Protection Agency, (Nevill 2000).

How do these principals fit into the New Zealand experience of EIA? NZ Experience There are some principals of EIA that in the opinion of a number

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of people are not being met. The application of might is right seems to rule the RMA process, groups such as Maori feel they are getting little recognition in the process and direct protest action is not uncommon where decisions go against the wishes of Maori, similarly there are groups who feel that Maori have too much influence and they scoff at cultural beliefs such as Taniwha, (King2003).

When it comes to certainty there is none, the process can be very drawn out and once appeals are taken into account there can be significant delays in the hearing and granting or denying an application for consent. National Party policy zeroes in on this as a significant barrier to investment and growth, (Key 2008). Cost effectiveness is another area that is bemoaned locally with participants complaining about the cost of providing EIA reports, with an increasing tendency for lesser scale projects to receive what could be argued as inadequate EIA attention, (Memon 1993).

Practicality is another area where there is tension, with the process coming under fire with participants arguing current practice is impractical and commercial realities are not given due weight, (Key2008). . EIA Incorporation The final part of this essay is to assess the extent of incorporation of EIA into New Zealand environmental management practice. EIA in New Zealand differs somewhat to practice overseas in that it is a regulated function of the RMA it is not stand alone and is incorporated throughout the legislation.

This differs from countries such as The Netherlands where EIA is a highly structured stand alone approach, (Schif 1997). This is a deliberate approach, where there is no distinct separation of EIA with the focus being on achieving

the positive outcomes of EIA without making it into separate legislation.

Fookes (2000) moots that this approach had the intent of providing protection from interests that may have had negative experience with EIA. There was evidence that where such negative impacts had surfaced there were attempts or potentially attempts to water down the legislation.

Given current rumblings from the National Party about the possible future look of the RMA it would appear that this is not as successful as it might have been. It is quite clear that the integrated approach is strong and robust and is held up as an international example and if the National Part makes it into power it looks as if the RMA will be changed, whether this is a watering down or not remains to be seen. EIA legislation in New Zealand is not only integrated within the legislation but the governance practice has also been devolved to territorial uthorities with a result of quite differing results and situations where Paul Cronin 3319860 resource consents are needed from different territorial bodies for the same project, personal communication. There is also a perceived lack of central guidance about the process that needs to be followed, (Schif 1997). EIA/ AEE In my reading for this essay it appears to me that EIA and AEE are interchangeable terms. I have not pursued this very far and may well be wrong in my conclusions certainly the environmental defence society use the term environmental effects assessment instead of environmental impact assessment.

The question of language is not necessarily semantics with values laced within different terminology however I will not address this any further.

Conclusion In this essay the writer has looked at the formative history of environmental legislation in New Zealand. There are a number of learning <https://assignbuster.com/environmental-impact-assesment-in-new-zealand-assignment/>

points that have been reached and some conclusive statements. EIA is integrated within the RMA, it is a legislative process however it is only conducted when a resource consent is required for an activity of development. Policy and planning is not subject to formal EIA procedures and in this writers' opinion it is an inherent weakness of the system.

When EIA is made the decision about the placement and scope of a project has already been made with little alternative action left available. EIA are values based, this leads to unavoidable tensions between environmental concerns and economic efficiency. Whilst currently the process is achieving reasonable results it is under threat of change from Paul Cronin 3319860 government. EIA is still a relatively new process in terms of law and as such it is an active document which should be reviewed. Devolution of decision making outside of central government leaves the possibility of rogue decisions.

This essay shows the depth and complexity of environmental legislation and highlights many areas worthy of more study and analysis. References Boshier, J. (1998). 25 Years of impact assessment in New Zealand. Planning Quarterly, (130), 18 – 20. Dunlap, R. E. , Mertig A. G. Editors, (1992). American Environmentalism: The U. S. Environmental Movement, 1970-1990. Taylor and Francis 1992, available from <http://books.google.co.nz/books?id=nll9Y5gmg1cC> John Key (2008) connect with john. Retrieved 18/08/2008. <http://www.johnkey.co.nz/> Fookes, T. 2000) Environmental assessment under the Resource Management Act 1991. In P. A. Memon & H. C. Perkins (Eds.), Environmental planning and management in New Zealand (pp. 80 – 92). Palmerston North, New Zealand. Dunmore Press King, M. (2003) The <https://assignbuster.com/environmental-impact- assesment-in-new-zealand-assignment/>

Penguin History of New Zealand, Auckland, New Zealand, Penguin Press.

Memon, A. 1993. Keeping New Zealand Green – Recent Environmental Reforms. University of Otago Press: Dunedin. Memon, A, Skelton, P. (2002) Adopting Sustainability as an Overarching Environmental Policy: a Review of section 5 of the RMA.

Resource Management Journal issue1, volume x March 2002. Morgan, R. (1998) Environmental Impact Assesment; a methodological approach (pp. 1-3. 31-52). Dordrecht, The Netherlands: Kluwer Academic Publishers Molloy, L. , Potton, C. (2007) New Zealand's Wilderness Heritage. Nelson, New Zealand: Craig Potton Publishing. Neville, J. (2000) Principles of Environmental Impact Assessment Retrieved, 19/08/2008, http://jnevill.customer.net.au/eia_principles.pdf Open Polytechnic of New Zealand Course Information Module 2, pp3, 4. Peart, R. (2007).

The Community Guide to the Resource Management Act 1991. Swanson, New Zealand. Environmental Defence Society Incorporated Resource Management Act Environmental Defence Society, retrieved August 15 from <http://www.rmaguide.org.nz/rma/introduction/historical.cfm> Schiff, B. (1997) Environmental impact assessment: A comparison of The Netherlands and New Zealand. Retrieved 17/08/2008 <http://geovoice.otago.ac.nz/issue001/bschijf.html> The Global Development Research Center (n. d), Defining Impact assessment, retrieved 18/08/2008. <http://www.gdrc.org/uem/eia/define.html>