

Resource Management Reform Bill

Submission to the
Local Government and Environment Committee

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Parliamentary Commissioner
for the **Environment**
Te Kaitiaki Taiao a Te Whare Pāremata

Introduction

This submission addresses the proposed changes to section 32 in clause 69.

Section 32 of the Resource Management Act 1991 requires a consideration of alternatives, benefits and costs when developing a plan, policy, or regulation. The reason for this evaluation is to ensure the proposal is the best way to achieve the desired objective.¹

I support some of the proposed amendments to section 32 but have very strong concerns about two aspects. This is because they would have the effect of placing economic values above environmental, social, and cultural values. This is not consistent with the purpose of the RMA which is to promote sustainable management of natural and physical resources.²

At the end of this submission, I make recommendations for two changes to clause 69.

The need to maintain balance: environment and economy

A section 32 evaluation requires identification and assessment of the benefits and costs of environmental, economic, social and cultural effects. But clause 69 singles out two economic effects that must be included, namely:

- economic growth opportunities that are anticipated to become unavailable; and
- employment opportunities that are anticipated to be provided or reduced.

This does not in itself say that economic effects are to be given more weight than environmental, social, and cultural effects. But the result will be that it will. Simply specifying these two economic effects while failing to specify other effects will unbalance a section 32 evaluation.

It is notable that the first economic effect that must be included is the loss of opportunities for economic growth, but there is no mention of the gain of opportunities. And yet New Zealand markets itself abroad as the “clean green country”; indeed the landscapes and relatively unspoiled nature of our country underpins one of our biggest industries – tourism. As written, clause 69 seems to suggest that the environment is the enemy of the economy.

Employment is quite rightly an issue of great concern for the Government. But jobs are created and lost all the time for a host of reasons. Just because jobs are not created in one area does not mean they will not be created in another area. Forgoing our environment for short-term growth may well curtail more sustainable jobs further down the line.

The quantification of effects

Clause 69 also states that if it is practicable, the benefits and costs in a section 32 evaluation must be quantified. I am frequently an advocate of quantification, but the way this is expressed in the Bill, it would further exacerbate the dominance of economic effects.

Some of the environmental, social and cultural values that are considered in section 32 analyses are difficult if not impossible to quantify. Of those that can be quantified, it will seldom be practicable to take the further step of expressing them in dollars. In contrast, estimates of economic growth and employment are commonly quantifiable.

Those experienced with section 32 evaluations are well aware of this.

*"... costs and benefits are often intangible and subjective, and hence difficult to ascribe monetary value. This view is reflective of the broader 'sustainable management' intent which sits behind s32."*³

Just because some effects can be readily quantified does not make them more important or certain than unquantifiable ones. Yet they can easily seem so, simply because they are expressed in terms of numbers.

Consider, for example, the section 32 evaluation for wetland protection in the Canterbury proposed Land and Water Regional Plan.⁴

Benefits	Costs
<i>Environmental</i>	<i>Environmental</i>
Prevents wetlands from being needlessly degraded or destroyed and thereby maintains and possibly enhances the indigenous biodiversity values associated with wetlands	None
<i>Economic</i>	<i>Economic</i>
Provides for sustainable land management including the use of wetlands as filters for surrounding land	Cost of fencing waterways off wetland Opportunity cost for production
<i>Social</i>	<i>Social</i>
Protects the indigenous biodiversity values associated with wetlands	None
<i>Cultural</i>	N/A
Maintains or restores values of cultural significance to Ngāi Tahu	

The cost of fencing and the opportunity cost for production can readily be quantified and expressed in dollars. In contrast, enhancing indigenous biodiversity or restoring values of cultural significance to Ngāi Tahu cannot be readily quantified, let alone be monetised.⁵

Effects that are expressed in dollars are likely to appear more real to decision-makers than more intangible benefits and costs, and thus carry more weight, even if the dollar calculations are not soundly based. We are all familiar with estimates of economic growth and job creation that do not become realities.

The cost of section 32 evaluations

Clause 69 proposes to introduce a sliding scale and significance threshold so that the level of detail in a section 32 evaluation would correspond with the complexity of the policy or plan. This is very sensible. I support the proposal to use the same "*scale and significance*" test as section 88(2) of the RMA because it already has some case law to define its meaning.⁶ This is intended to keep the costs of a section 32 evaluation to a level that is in keeping with the scale and significance of the proposal.

However, the proposal in the Bill to require quantification where practicable is likely to increase the cost of section 32 evaluations. Currently, the cost of a section 32 analysis ranges from \$3000 to \$50,000.⁷ Quantifying the effects on economic growth and employment on their own could easily cost this much or more in many cases.

The effect of clause 69 as written is that the assessment (and quantification) of effects on economic growth and employment must always be funded and therefore will be the 'first call on expenditure'. This is likely to raise the costs of section 32 evaluations, and / or limit the money available to evaluate other effects.

Recommendations

I recommend:

1. In clause 69 that section 32(2)(a)(i) and section 32(2)(a)(ii) are deleted.

~~(i) economic growth that are anticipated to cease to be—
available; and~~

~~(ii) employment that are anticipated to be provided or reduced;~~

2. In clause 69 that section 32(2A) is added.

(2A) Quantified benefits and costs should be given no additional weight over unquantified benefits and costs simply because they are quantified.

Endnotes

- 1 Resource Management Act 1991, ss 32(3),(4). At the local government level, section 32 evaluations must be done for proposed regional policy statements, regional and district plans, plan changes, or variations. At the central government level, section 32 evaluations must be done for proposed national environmental standards and national policy statements.
- 2 Section 5, Resource Management Act 1991
- 3 A report on section 32 commissioned by the Ministry for the Environment consulted a group of people from seven local governments, Department of Conservation, Ministry for the Environment, the New Zealand Transport Agency, Transpower, and Fonterra. All were experienced with section 32 evaluations. Harrison Grierson (2009) Review of Section 32 of the Resource Management Act 1991, Stage 1 - The Role of Economic Analysis (page 20).
- 4 This is an excerpt of the list of benefits and cost. The section 32 evaluation can be found here <http://ecan.govt.nz/publications/Plans/proposed-clwrp-s32-report.pdf> on page 118.
- 5 Interestingly, the value of wetlands filtering excess nutrients out of farm runoff and preventing them getting into aquifers and streams was classed in this evaluation as an economic benefit although protecting water quality is an environmental benefit. Regardless, it is a benefit that cannot be expressed in dollars.
- 6 *"The proposed activity has to be described in detail sufficient to enable the effects of carrying it on to be assessed in the way described by the Fourth Schedule. The description is intended to include whatever information is required for a consent authority to understand its nature and the effects that it would have on the environment. The description is expected to be full enough that a would-be submitter could give reasons for a submission about it and state the general nature of conditions sought."* AFFCO NZ v Far North District Council A6/94
- 7 The consultation group (see note 3) found that the cost of a section 32 evaluation ranges from \$3,000 to \$50,000. As a proportion of the overall policy/plan development costs, the majority of respondents noted that the proportion was approximately 10-15%, with one council stating that the section 32 costs were around 70%-80% of their plan change/variation projects. The section 32 evaluation for a recent NPS was estimated to be between \$10,000 - \$20,000. Harrison Grierson, 2009, page 14.