

# LOCAL GOVERNMENT LAW JOURNAL

Volume 10, Part 3

February 2005

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## PROSECUTION OF ENVIRONMENTAL OFFENCES UNDER NEW ZEALAND'S RESOURCE MANAGEMENT ACT 1991: TROUBLESOME POLICY ISSUES FOR LOCAL GOVERNMENT

**Richard M Fisher**

The Resource Management Act 1991 (**RMA**), along with its subsequent amendments, has been a comprehensive attempt in New Zealand to replace over 20 environmental and planning statutes with a single piece of legislation that will promote a proactive, integrated approach to sustainable management of natural and physical resources. It contains an impressive array of enforcement tools. They range from informal consultation to summary proceedings before the courts, with hefty penalties of up to \$200,000 in fines and two years imprisonment. Unfortunately the RMA has largely devolved responsibility for environmental planning and regulatory functions from central government to more than 80 local authority bodies. Those bodies have been granted wide discretion about how they are to enforce the RMA. This has resulted in undesirable variation among authorities in best practice approaches to environmental enforcement, including their willingness to prosecute for serious environmental offences. A New Zealand case study that reached national prominence is included that demonstrates how too much discretion respecting

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#### SPECIAL LEGISLATION AND THE ENVIRONMENTAL IMPACT ASSESSMENT PROCESS IN NEW SOUTH WALES

##### **Elizabeth Carroll**

Legislation which retrospectively overrides environmental impact assessment procedures in relation to specific development has been passed on a number of occasions by the NSW Parliament. This legislation could be viewed as a legitimate means for parliament to recall the wide discretionary powers of the executive in particular circumstances. However, such legislation is a breach of the rule of law and is evidence of a crisis in the system. It undermines the legitimating and dispute resolution functions of environmental impact assessment, creating uncertainty and undermining economic confidence. Instead of reacting to individual cases with special legislation, reform which addresses the underlying cause of the problem is required. Recent statements of members of the NSW Government may indicate a move away from the use of such legislation in the future.. 135

#### CHANGES TO NATURAL RESOURCES MANAGEMENT LAW IN SOUTH AUSTRALIA AND ITS IMPACT ON LOCAL GOVERNMENT

##### **Paul Leadbeter**

South Australia is about to enter a new era of natural resource management with the passage of the Natural Resources Management Act 2004. The new legislation repeals and amends a number of existing statutes and seeks to develop a more comprehensive and holistic approach to natural resource management across the State. Whilst local government has no direct statutory role as an administrative authority in the management processes envisaged by the new legislation, it is nevertheless seen as a "key participant" in the new regime, in part because of its close connections to local communities and its role in regional and local planning. This article outlines the key areas where local government authorities may have a future participative role in natural resource management in South Australia. .... 144

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ISSN 1324-1265

Typeset by Lawbook Co., Pyrmont, NSW

Printed by Ligare Pty Ltd, Riverwood, NSW