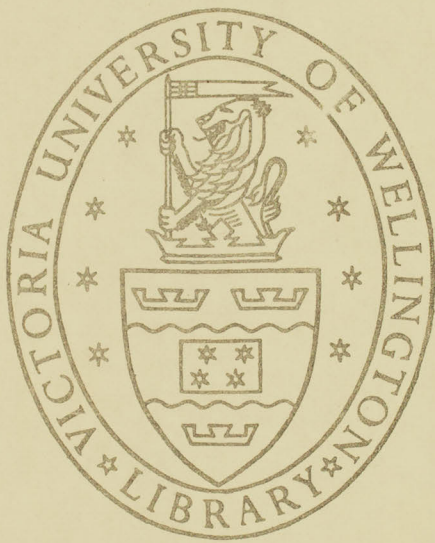


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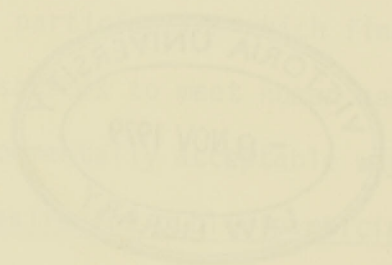
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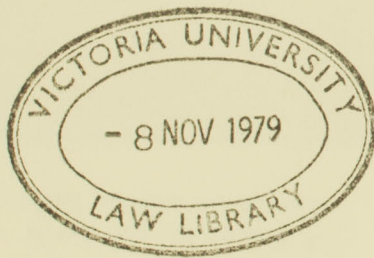
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PUBLIC PARTICIPATION IN ENVIRONMENTAL  
DECISION-MAKING



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NY NTEIN, M.S. Public participation in environmental decision-making



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I i The Evolution of Public Participation

Public participation is basically part of an evolutionary process of social change which aims at political and social egalitarianism.<sup>1</sup> It seeks a greater degree of power sharing through the politization of the citizen's awareness of his or her potential role as a member of the community of interest in shaping the quality of the environment. The ultimate aim of participation is "community participatory design" where citizens, resource professionals and politicians work together to resolve legitimate disagreements and fairly allocate environmental resources.<sup>2</sup> Planning for the environment is a process involving investigation, study and public participation which finally leads to the deployment of resources to meet human needs, in the most benign and environmentally acceptable way possible.

ii The increasing desire for public participation

The growing awareness of members of the general public concerning matters likely to affect them, and the consequent desire for additional information and involvement in the resolution of environmental matters is an increasing phenomenon in many countries including New Zealand during the last decade.<sup>3</sup> The demand for more public participation arose from the democratic rights of the individual to be informed and consulted and to express his views on matters which affect him personally as well as collectively as a member of the community. Also it arose from failure of past plans or policies to identify correctly the desires of the public. This is apparent

when one looks at the controversies and failures resulting from such projects as Marsden, Comalco and Clutha development schemes. Indications of mounting frustration made planners and politicians increasingly aware, not only that the public wants to be heard and that it may have valuable contributions to make but also that its influence can no longer be ignored. Increasing amounts of letters to officials as well as to newspaper editors and articles in scholarly journals indicated that the public did not desire to be left out while the authorities made decisions on its behalf. The lack of any means of public participation is best illustrated in the administration and use of State Forests in 1976 when a petition signed by one-third of a million New Zealanders was placed before Parliament by the Native Forest Action Council calling for the felling of indigenous timbers to cease by 1978. This may be described as the shortcoming of the Forest Act 1949. This Draconian piece of legislation gave members of the public no right to be heard on the questions relating to the use of forests.<sup>4</sup>

iii Rights and Opportunities to Participate

By providing rights and opportunities for public participation, affected persons likely to be unrepresented in the environmental assessment and decision-making process are provided with a chance to present their views. Although environmental processes in New Zealand have sometimes included a role for the public, the past decade has witnessed dramatic changes in the scope for public involvement. The public has a major role in the Environmental Protection and

Enhancement Operation, which is a non-statutory operation approved by Cabinet in May 1978. Limited public participation is now available under a number of statutory provisions. Under the Harbours Act 1950 the public may become involved in the Control of Reclamations. It may also be invited to participate in the area of Marine Farming under the Marine Farming Act 1971. Extensive and most influential public participation has been provided in the establishment and maintenance of District Schemes under the Town and Country Planning Act 1977. Also a similarly high level of public participation is available to the public in the Subdivision of Land under the Local Government Act 1974. In the establishment and maintenance of management plans for State Forests, or for Reserves, the public now has the statutory opportunity to participate by sending in submissions to influence the policy decisions of the specific authorities. Members of the public may now be able to provide useful and additional information to the decision-maker, especially when values are involved that cannot be easily quantified. Accountability of political and administrative decision-making is likely to be re-enforced if such a process is open to public view. Public confidence in the reviewers and decision-makers will be increased since people can clearly see in most cases that all issues have been fully and carefully considered.

The present study will be solely concentrated on the public participation in the State Forests and the Reserves areas where the public was given the opportunity to participate, only within the past three years. The following section will

provide the reasons for the need for public participation in these areas and will explain the statutory provisions concerning the role played by the public in the planning process. In the later part, the research carried out will attempt to provide some insight into how these participatory measures are functioning in practice. I will then discuss the differences provided by these statutory provisions because of their underlying policy reasons. Furthermore, I will consider the significant achievement of the individual member of the community who now has the opportunity to shape the environment by influencing the planners in their decision-making.

## II Public Participation in the State Forests and the Reserves Areas

### (A) The necessity for public participation:

It would be desirable to provide the public with an opportunity to decide what it wants or prefers to do with the environment which it has to live in. The public should be given the opportunity to shape its environment to provide a valuable, enjoyable and comfortable place to live in. It would be improper for the public to accept what the authorities think proper that their environment ought to be. This would deprive of the individual's right to express his views or feelings, which would be contrary to the basic rights of all democratic citizens. The provision of public participation in the preservation and management of the environment would provide the individual citizen with a sense of belonging to the community and with the feeling that his earnest effort in contributing towards the system will not be frustrated.

The preservation and management of reserves for the benefit and enjoyment of the public is fundamentally important to nourish



the environmental prosperity benefiting to the community as a whole. To take a few examples, an average member of the community would occasionally use recreation reserves<sup>5</sup> and he would be interested in how these areas should be developed or administered. Scenic reserves also serve a public use, with their awesome beauty and grandeur existing as the country's national assets. Other reserves such as those for scientific, historic and nature purposes are established in the public interest for the benefit of the members of the community. In recognizing the need for public involvement in bettering the environmental decision-making process, the Reserves Act 1977 fundamentally established the provision for public participation in the reserves management planning.

As to the State Forests, they are nationally notable not just because of their scenic and recreational values but also because of their great regional importance in preventing soil erosion and for timber production and, most importantly, in the formation of weather patterns. As the country's national treasures many State Forests stand with their great majesty and beauty also serving as the havens and sanctuaries of the country's native wildlife. In the preservation of the country's national treasures the public should be provided with the opportunity to participate in the formulation of policy. Indigenous forest policy is concerned with both production and preservation values and therefore any policy revision concerning these publicly-owned State Forests must take into account public opinions. The provision of public participation in the formulation of necessary policies enables the identification and discussion of all the relevant points surrounding the particular issue, with the public making significant contributions

towards the end result. The Forests Act 1949 was amended in 1976 to include the provision enabling the public to participate in the preparation of management plans for state forest land.

(B) Reserves Act 1977:

The Reserves and Domains Act 1953 did not provide public participation in management planning for reserves. It was repealed by the 1977 Reserves Act which introduced many changes including some significant innovations. The Act requires the administering bodies<sup>6</sup> to prepare management plans for reserves vested in them ~~or~~ otherwise under their control. Possibly the most important innovation in the Act is the introduction of the new provision for public participation in the management planning process.

i Requirement of a Management Plan

Under S.41 of the Reserves Act 1977, a formalized procedure for planning was introduced into public reserves management in New Zealand. Section 40 authorizes the administering body to control and manage the reserve for which it is responsible. It must ensure the use, enjoyment, development, maintenance, protection and preservation of the reserves in accordance with the appropriate provisions for the purpose for which they are classified. All the administering bodies are required under S.41(1) to "prepare and submit to the Minister (of Lands) for his approval management plans for the reserves under their control, management, or administration".<sup>7</sup>

ii The Classification of Reserves

Before a management plan is drawn up, the nature of the reserve or its classification has to be known. The responsibility

to classify reserves rests with the Minister of Lands, unless this power is delegated in terms of S.10 of the Act. The Department considers that in general the classification procedure will precede the management planning process but this may not be the set procedure.<sup>8</sup>

Under S.16 of the Act, the Minister has to classify whether a particular reserve is for the purpose of recreation, or for an historic, scenic, natural, scientific, government purpose or local purpose.<sup>9</sup> Before any of the above classifications can be made, public notice has to be given specifying the classification proposed.<sup>10</sup> The public is then required to send in written submissions approving or disapproving or adding additional suggestions on the proposed classification. It is a mandatory requirement for the administering body to give full consideration to all submissions put forward by the public.

iii Public Participation in the Reserves Management Planning Process

The public now has the opportunity to influence the planners in preparing individual management plans for the management and development of public land. By giving the public the right to participate, Parliament made the planner more responsive to public opinions and the public more aware of the reasons for decisions. The general public is regarded<sup>11</sup> as a valuable storehouse of original ideas and presentation of its views is obtained before the planner becomes too committed to his own preconceived or subjective views. It is because of this that, before embarking on the preparation of a management plan, S.41(5) requires the administering body to:

- a Give public notice of its intention to do so; and
- b In that notice, invite persons and organizations interested to send to the administering body at its office written suggestions on the proposed plan within a time specified in the notice; and
- c In preparing that management plan, give full consideration to any such comment received.

After the management plan has been prepared in draft form, the public has a second chance to participate by sending in written submissions, objecting or commenting on the proposed draft plan.

Under S.41(6)(a) it is the duty of an administering body to,

Give public notice complying with S.119 of the Act stating that the draft plan is available for inspection at a place and at times specified in the notice, and calling upon persons or organizations interested to lodge with the administering body written objections to or suggestions on the draft plan before a specified date, being not less than two months after the date of publication of the notice.

Before the management plan has been finally approved by the Minister, the public is provided with an additional right to be heard by the administering body or a committee, in support of objections and suggestions made under S.41(6)(a), (b) and (c). The hearing has to be requested by the person or organization concerned at the time of lodging the objections or comments (S.41(6)(d)).

In seeking plan approval from the Minister, an administering body is required under S.41(6)(e) to attach to the plan "... a summary of the objections and comments received and a statement as to the extent to which they have been allowed or accepted or disallowed or not accepted". Public involvement is regarded by the Department as so fundamental that all the administering bodies are directed to take into account minority groups' opinions even if the particular

issue has the solid majority support of opinions.

(C) Forests Act 1949:

As it has been said<sup>12</sup> the Forests Act (1949) did not give the public the right to be heard on the matters relating to the use of forests. Members of the public who took an active and vocal interest in the administration and use of State forests were left without a proper remedy or forum. The public had no right to participate in making decisions as to how the land it "owns" is to be used or administered. The shortcoming of the Forests Act was highlighted in the Petition (NFAC (1976)) signed by one third of a million New Zealanders. Petitions represent the inadequacy of the existing laws and also in many cases the expenditure of enormous energy by the petitioners who cannot achieve their aims in any other way. The inadequacies and frustrations produced by the (1949) Forests Act were removed in the 1976 Forests Amendment Act, which added an important provision for public participation.

i The Forests Amendment Act 1976 and Public Participation

In 1976 the importance of public involvement in environmental decision-making was endorsed by the Legislature. The public now has the opportunity to influence the decision-maker on matters concerning State forest policies. The Forests Amendment Act (1976) S.8 added S.S.(5) to S.26 of the 1949 Forests Act in providing public participation which said:

The Minister may make public any management plan or any part of any management plan or any proposals leading to a management plan and may cause a notice to be published in some newspaper circulating in the district, and at least one in each of four daily newspapers, one of which shall be published in Auckland, one in Wellington, one in Christchurch, and one in Dunedin stating where and at what times a copy

of the management plan or the part of the management plan or the proposals is open for inspection and specifying the time during which any person or organization may make written submissions thereon to the Minister:

Provided that before the Minister approves any management plan he shall give full consideration to all submissions in respect thereof that are duly made under this subsection.

ii Public Participation in the State Forests Management Planning Process

In preparing a management plan for a State forest the first step is for the Service to publish a "Preliminary Report" indicating that a particular plan is to be prepared and asking for comments and views as to what should be covered in the plan. This "Preliminary Report" stage is not a statutory requirement but it is recognized by the Service to be an essential procedural requirement.<sup>13</sup>

At the second stage of the planning process, the Service is to prepare the management plan of the State forest which is to be published in draft form, giving notice to the general public to send in submissions within a specified period. A minimum of three months is usually allowed but extension of time is given providing the reason for delay is adequate.<sup>14</sup>

All the submissions sent in by the public are separated into different categories. The officials of the Service then summarize those submissions into a condensed form before submitting to the Minister (of Forests) for his final approval. It is a mandatory requirement for the Minister to give full consideration to all submissions before giving his approval to the management plan.<sup>15</sup>

After the public has sent in submissions on the proposed management plan it has no additional opportunity to be heard before any

authority to make further representations. After the Minister's final approval is given the planning process is at an end.<sup>16</sup>

The new management plan has been accomplished which is to operate in the administration and development of that State forest.

### III Practical Operation of the Public Participation Provisions

#### (A) Reserves management planning process:

Every administering body or the Department of Lands and Survey where there is no administering body<sup>17</sup> must prepare a management plan for the reserve under its control, management or administration.<sup>18</sup> The Wellington City Council is in charge of numerous parks and reserves within its administrative district.<sup>19</sup> The City Council is only required to prepare management plans for those reserves which come under the classifications provided by the Reserves Act requiring the Minister's approval.<sup>20</sup> Only then, public participation is available in the preparation of management plans for those reserves. However even if a reserve comes under the classification of the Reserves Act, it might in certain circumstances be impossible for it to have its own management plan. There are hundreds of reserves under the administration of the City Council, so that it would be impossible for the Council to prepare management plans for each individual reserve within the required statutory period of five years.<sup>21</sup> The Lands and Survey Department has urged all administering bodies to give preference to reserves that are receiving the heaviest pressure in terms of public use or conflicts of use, or which are biologically or culturally at risk.<sup>22</sup>

#### i Conflicting Views on the Procedural Requirements

From the very first stage of the Council intending to prepare a management plan, public notices are placed in newspapers inviting the public to participate in the planning process.

This first advertisement is said to have been causing confusion among the public with the second advertisement inviting public submissions for the draft management plan.<sup>23</sup> The Council has experienced that the public interest at the second stage had waned and suggested to combine the two stages to provide more effective public participation.

It is submitted that by combining those two stages it would defeat the very purpose of the Legislature's intention to enable the public to influence the decisions of the administering body before it becomes too committed to its own preconceived or subjective views.<sup>24</sup>

The public becoming less interested in the second stage may not be a good reason to combine the two stages of public participation. The Legislature had made sure that those who participate at the first stage are given individual notice to participate in the second stage.<sup>25</sup>

The interest groups who often participate in this area see the merging of the two stages as reducing the right of the public to influence the decision-makers, with the undesirable consequence of public becoming less influential in the planning process.<sup>26</sup>

The Reserves Act has just opened up public participation, which is less than two years old, and to reduce public involvement would be going backwards rather than continuing to move forward by opening up more opportunities for public participation.<sup>27</sup>

ii Satisfactory Response from the Public

The Council has been quite satisfied with the general public responding to its invitation to participate. There has never been a single occasion where the Council did not receive any



public contribution. The public submissions received by the Council ranged from a very brief note to some highly researched submissions.<sup>28</sup>

The public response in this area has been mostly <sup>in</sup> agreement with the Council's proposals. Those who object, which the Council finds to be very few, usually reached satisfactory agreements after participating in occasional public meetings held by the Council. These public meetings are usually organized as informal round table meetings where the exchange of views is taken from all those who participate. All parties are allowed to exchange their views or make alternative suggestions ultimately to achieve a general consensus. The provision of these public meetings has been described by one of the interest groups as a very brave effort by the Council which is said to have been working extremely well in practice.<sup>29</sup>

iii Interest Groups' Participation

The Council has no objection to interest groups involving themselves in the planning process. It even thinks that it is necessary to have interest groups participating because they provide, quite often, valuable researched documents useful in the planning process. The Council has even achieved a near perfect relationship with some interest groups, where each party occasionally exchanges new developments and information, providing a two-way benefit with greater understanding of each other.<sup>30</sup>

iv Public Contribution, Influential to the Decision-Maker

The general public is regarded as a storehouse of original ideas and the Council believes that, quite often, the ideas from the public have provided an incredible value towards the planning process. The public involvement also has the potential to provide valuable and factual information and informed opinion to the Council.<sup>31</sup>

The Council sees that the provision for public participation has ensured

that its decisions reflect the interest of the public and not its own prejudices. The situation is no longer the case where the Council decides how the reserves are to be developed. The public is now telling what the Council should be doing in the management of reserves. The quality of the decisions made has improved satisfactorily and it has now acquired a much smoother planning process.<sup>32</sup>

v The Disadvantages that exist because of Public Participation

The need of management plans for reserves had increased the cost of projects and this is one of the main reasons why the Council is unable to establish management plans for all reserves.<sup>33</sup> Because of the public participation provisions it is obliged to follow the cumbersome procedures imposed upon it by the Reserves Act.<sup>34</sup> To establish a complete management plan the administrative time required would range from ten to fifteen months.<sup>35</sup>

In weighing up the advantages and the disadvantages, the Council sees that the public participation has not only improved the quality of decisions but it has also removed misunderstandings between itself and the members of the community. This is an achievement that the Council values most. The relationship between the Council and the public has been extremely good so that the third opportunity for public participation, a right of hearing before an authority, has never been used yet.<sup>36</sup> It seems to be that the public participation in the field of reserves under the management of local bodies is proving very satisfactory with greater public involvement in the environmental planning process.

(B) Forests management planning process:

i Discretionary Powers and Public Participation

The Forest Service is solely responsible in the preparation of management

plans for all State Forest land. It is not surprising that the Legislature had conferred upon the Minister of Forests the discretionary powers to enable him to manoeuvre freely in accordance with the political atmosphere prevailing at that time. The new public participation provision is dependent upon the Minister's discretion whether the management plans are to be made public or not. The reason for conferring the discretion upon the Minister is two-fold. By exercising his discretionary power, the Minister may be able to keep a particular management plan secret till it has been finalized. This is to protect the commercial competition of private enterprises which might produce some self-indulgence if the information of that area is to be pre-released.<sup>37</sup> The second reason is to enable the Minister to decide whether the publication of the management plans would have any public benefit at all. The Minister has decided that all indigenous State Forest management plans are to be made public because they are at the present considered to have great public interest.<sup>38</sup> The Minister still retains his discretion in relation to matters concerning exotic forests where public participation still depends upon his decision whether those plans are to be made public or not.<sup>39</sup>

Public participation in the Preliminary Report stage and the latter Draft Management Plan stage are not mandatory Legislative provisions but only of permissive nature. It is submitted that there is no right for the public to participate, there are only opportunities that the Minister in his discretion may or may not decide to provide.<sup>40</sup> Public has no defined right to participate as it has under the Reserves Act 1977.

ii Receiving Submissions from the Public

The submissions are received by the Service where they are separated into different categories. In the case of submissions for West Taupo State Forests they were categorized as submissions from individual groups; service and community groups; business firms; unions and timber processing interests; local authorities; professional and research organizations and advisory bodies; voluntary conservation groups; recreation groups and interests.<sup>41</sup> Such an arrangement is regarded by the Service to be somewhat arbitrary, but it is considered to be useful to gain an overall impression of the views expressed by similar groups and organizations. All submissions sent in by the public are read carefully by senior Forest Service officials with a high degree of knowledge in relation to the issues involved.<sup>42</sup> These officials then summarize the submissions with the sole purpose of getting the true reflection of the views expressed. The purpose of categorizing and summarizing the submissions is not only to gain an overall impression of the views expressed by the public. It is also to make the planning process less precarious by carefully condensing the issues involved to enable the Minister to see clearly the various public opinions before giving his final approval.

iii General Response from the Public

In 1978 the Minister's invitation to comment on the management proposals on the West Taupo State Forests prompted a large response: 1735 submissions - 3300 pages of typescript and handwriting.<sup>43</sup> The submissions ranged from brief, simple, and obviously sincere statements to detailed reports showing a depth of understanding of the proposals and lengthy association with the forests concerned.<sup>44</sup> This type of public response does not occur in every case. Occasionally

the Service receives brief and simple submissions ranging from 250 to 300 with very few carefully researched lengthy documents.

So far the Service has not been disappointed by the response from the public, which has never been absent whenever the public was invited to participate. General response from the public is described by the Service as quite satisfactory.<sup>45</sup> It regards that public participation is only satisfactory when the submissions put forward discuss all relevant and important issues with a wide range of views representing different bodies with different backgrounds with some degree of understanding of the issues involved.<sup>46</sup> It also maintains that the total number of submissions received has no significance whatsoever because each individual submission received is given full weight according to its content value.

A contrary view is apparent on the part of some environmental interest groups, such as the Native Forest Action Council, which holds the view that "the sheer number of submissions will make the greatest impact".<sup>47</sup> The NFAC had been successful in its campaign to stop logging in the West Taupo State Forests in 1978 where it used the same theme encouraging members of the public to send in their submissions.<sup>48</sup> Naturally, it also sees that submissions which discuss a wider range of aspects will obviously carry greater weight.<sup>49</sup> The NFAC's view might have some validity in it, because in 1978 the Minister finally decided to save the West Taupo State Forests which showed the strong influence from the vast majority of public opinions to stop logging in those areas.<sup>50</sup>

iv Interest Groups participating in the Planning Process

The Forest Service sees that the public participation provisions work more satisfactorily when anyone, who has any valuable contribution

to make, participates in the planning process. It has no opposition to interest groups actively participating together with any other public members as long as their contributions are for the benefit of improving the quality of decisions.

The interest groups have been actively involved in the State Forests management planning process, most of the time also encouraging the public to become aware of the priceless value of the environmental conservation.<sup>51</sup> Many conservation-inspired public meetings have been held in main centres throughout the country, sponsored mainly by the Native Forest Action Council and Royal Forest and Bird Protection Society. They have organized more than just public meetings. The public is invited to attend occasional slide shows, or to participate in field trips to actually experience the quiet and peaceful values of the environment. They also distribute pamphlets, booklets and posters etc. to inform the public of the news, views and objectives of the environmental conservation groups.

There are occasions where the Service has experienced excess participation by some interest groups which impeded the proper administration of the planning process.<sup>52</sup> The Conservator of the Forest Service has complained that the radically active role played by some interest groups has misinformed the public with incorrect information which resulted in serious misunderstanding of the authorities in the public view.<sup>53</sup>

The interest groups, however, feel that the Forest Service, in future, will have to improve its public relations to enhance the public participation purposes established by the Act.<sup>54</sup> They suggested that the Service should adopt a more open decision-making practice and become less secretive in its release of necessary information to enable meaningful public participation.<sup>55</sup>

v The Secretive Nature of a Government Department

There is the tendency of a gap between the body who holds information and the general public at large.<sup>56</sup> Despite increases in expenditure and rapid advances in the technology of communication, there is a communication gap between bureaucrats and the public.<sup>57</sup>

The Minister strongly suggested that there is no other government department which is more liberal than the Service in releasing necessary information for the public benefit.<sup>58</sup> This statement cannot be supported in the light of the following event experienced by one individual.<sup>59</sup>

The Service was approached by this person with an attempt to obtain a management plan<sup>60</sup> for the research that he has been carrying out. He was disappointed after being turned down at least three times by the Service refusing to provide the document in question. Eventually, the Service agreed to let him have a quick look through the document in one particular room, while being continuously watched by one of the staff. In responding to this event, the Assistant Director-General of the Forest Service, Mr. Kirkland said that the move towards an open government had just started and it is possible that somewhere down the ranks, the staffs are not yet used to the new system. He explained that because of the usual practice of the bureaucratic system the staff will not be well accustomed to the policy of open government in a short period. He maintained that it takes time to change people's attitude and the secretive nature of some staff will change in due course. He assured that the Service will be providing more information and open up its doors to the public in an attempt to achieve more open decision-making in the future. Apart from some controversial nature of the situations involved in this area, public participation has greatly improved the planning

process. Not only are public opinions reflected in the planner's decisions but many frustrated and discontented voices and feelings have been removed because of the 1976 Forests Amendment Act.

IV General Discussion of the Differences in the Public Participation in the State Forests and Reserves Management Planning Process

i The Level of Public Participation

The meaning of public participation has been discussed in some length by Baric<sup>61</sup> who suggests two classes of participation, i.e. induced and indicative. Induced participation occurs when the public is encouraged to accept a proposal or line of action already drawn up. In indicative participation the public is relied on to provide indicators and directions which are used in establishing basic aims and forms and they have a good opportunity to influence events. In pursuing towards progressive public participation it is desirable to have the indicative public participation to provide a worthwhile effort in involving the public in the decision-making process.

The right of the public to participate in the reserves management planning is more like an indicative participation. The public is able to participate before any management plan or even a draft plan has been drawn up, to indicate its views on the management of reserves which may be used in the drawing up of a draft management plan. It then again has the right to participate to provide further representation with a good opportunity to influence events.

In the case of public participation in State Forests management planning, it is not too strong as in the Reserves area to hold that it is an indicative participation. In the Forest



area the public has no right to participate but only has an opportunity to participate.<sup>62</sup> It has a limited chance to participate at the 'Preliminary Report' stage to indicate its views concerning a particular State forest.<sup>63</sup> In the later stage it also has the opportunity to participate with a good opportunity to influence events.<sup>64</sup>

ii Public Participation, a Mandatory and a Discretionary Provision

Public participation is mandatorily provided in the reserves area but it is a discretionary matter in the State Forest management planning. The Legislature has differentiated the two because of the significant policy reasons behind those two areas. In the State Forest management, issues involved are tainted with politics<sup>65</sup> which have highly sensitive conservation issues.<sup>66</sup> The rigidity of the policy guidelines that the Forest Service has to implement provides no flexibility at all to avoid confrontations with the public concerning controversial issues.<sup>67</sup> The whole forest management system is embedded into the political process so that it is not surprising for the Legislature to confer discretionary powers upon the Minister. The Legislature had relied upon the political skilfulness of the Minister to make decisions according to the political atmosphere prevailing at the relevant time.<sup>68</sup> To impose an obligatory duty upon the Minister to provide public involvement in all matters might not be appropriate in certain circumstances where the Minister acting in the public interest may feel that by providing public participation in some management planning, no beneficial result will accrue to the public. It would only consume human and financial resources, also unnecessarily delaying the projects with little improvement in the planning decisions.<sup>69</sup> In contrast to this area, in the reserves management planning,

the responsibility lies with the local bodies to make specific proposals without having to follow a policy guideline laid down by a political entity. Their actions are less politically sensitive and the issues involved are usually only of local or regional significance with some degree of flexibility. A local body has much closer contact with the community and it would be more beneficial in its planning process to involve the public in making valuable contributions. The lack of political sensitivity and less controversial ~~the~~ nature of the issues involved makes it appropriate for the Legislature to provide a mandatory obligation imposed upon local bodies to provide public participation in all reserves management planning.

The Legislature may be justified in drawing the mandatory and discretionary distinctions between those two areas. But it is insufficient not to provide a statutory opportunity for the public to participate in the Forest area at the very early stage before a draft management plan has been drawn up. It is submitted that the public should be provided with a statutory opportunity to participate at that very early stage. The best public participation procedure is to receive the views of the public at the very beginning of the decision-making process.<sup>70</sup> There is no policy reason or justification on the part of the Legislature to have excluded this opportunity for the public to participate. Mr. Kirkland, the Assistant Director-General of the Service, sees that it is even desirable to have a legislative provision and the Service will be recommending to Parliament to adopt this procedure when the occasion to amend the Forests Act occurs in the near future.

### iii Significant Role played by the Interest Groups

A politically significant development has been the growth in the membership of interest groups seeking to influence planning and policy-making.<sup>71</sup> Some people do not favour the emergence of powerful groups<sup>72</sup> because

they seek to influence policy in the direction of their own interests where in some cases their activities may actually impede the identification of environmental problems and certainly inhibit any survey of initial solutions. Nevertheless many people feel that a certain form of citizen-initiated protest through active groups is a necessary means to achieve environmental goals.<sup>73</sup>

The active role played by the interest groups in the environmental planning cannot be disregarded for they serve as a good initiative to make changes to the existing system or to preserve the environment from further interference. It is accepted by the Forest Service as well as the City Council that to have active and responsive public participation, the interest groups play a necessary and important role in the planning process.<sup>74</sup> However, they cautioned that excess participation by these groups would not produce progressive and beneficial results but on the contrary it would be a misuse of the system.

iv To Safeguard Excess Dominance of Interest Groups

There has been some concern about pressure groups dominating the field of public participation opportunities as their stepping-stone in viewing or publicizing their extreme, closed and unbalanced conceptions.<sup>75</sup>

The public needs are said to be in more pressing need than the interest groups who have the articulate, the educated and the well-financed members, whom the officials already have heard a good deal.<sup>76</sup> The more extensive participation by these groups may make it only harder for officials to learn about and care for the wider interests of their communities.<sup>77</sup>

In any system of public involvement the object desired is that the system allows anybody to participate who can meaningfully provide any contribution into better decision-making in any public venture. To ignore submissions or views just because they were presented by

interest groups would be unfair and improper in the light of the purpose of public participation provided by the Legislature. The only means of public participation does not necessarily mean genuine individual participation so the system provided will always have to cope with the pressure group involvement in the planning process.

To have more effective public participation, which would be beneficial to both the public and the planner and at the same time reducing the excess dominance of interest groups, a scheme was suggested by the Commission for the Environment.<sup>78</sup> The planner is required to draw a programme of public participation which would go beyond the legislative provisions. This programme will have to be carefully planned to educate and inform the public, with the distribution of booklets, pamphlets on display, of films, slide shows and most of all public meetings held in advance. This would have the effect of spending more money but it would also have provided sufficient and valuable information to all those who are interested of the planning process. The public would be more aware of the issues involved and the degree of public participation is highly likely to increase substantially. The excess domination of interest groups may be reduced or even avoided when the public has the information and reasonable understanding of the relevant issues concerned. The main theme of the above scheme is to open up the decision-making process to provide more progressive public participation, where anybody who is interested can participate and not only those who are aware of the issues involved.<sup>79</sup>

v The Need of Well-Informed Public to have Effective and Meaningful Public Participation

It is a self-evident truth that informed public discussion can only result if there is greater availability of information or access

to such information, depending upon the particular area concerned.

Official information is governed by a range of regulations<sup>80</sup> but in essence that official information has been obtained or gathered with public monies. It is the taxpayer who has paid for the collection of official information but the public has been restricted in having access to such information.<sup>81</sup> If the flow of information in this environmental decision-making process is increased, it is likely to benefit greater equity and greater involvement.

The public involvement in the reserves management planning has been functioning very smoothly, mainly because of the Council's general supply of information to the public being satisfactory. The Council has been described as doing extremely well in its public relations, especially in its brave attempt to hold occasional public meetings.<sup>82</sup> The situation is somewhat different in the area of planning for State Forests. It has been seen that the Service, not surprisingly being a government department, has been less satisfactory in its supply of information. One could also see that the Service's new open government policy has only been adopted unconditionally at the highest level of the official ranks.<sup>83</sup> It seems that the general public is to wait till the time when all the ranks of the Service staff get used to the open decision-making system.<sup>84</sup> By becoming less restricted in its supply of relevant information, which the Assistant Director-General of the Service sees is put into practice, it is surely likely to improve the quality of public participation in the decision-making process.

#### The Conclusion: Public Participation and its Ultimate Aim

Public involvement in planning ensures that the views, rights and concerns of the community as a whole are identified at the appropriate moment to resolve as many conflicts as possible. It is often hard for an individual citizen

to influence the course of Government or administrators' decisions. But the individual's voice can make a difference when there is an opportunity to act in concert with other people of similar views - especially at a time when crucial decisions are about to be made.

The provision for public participation has safeguarded the individual's civil liberties and legal rights and at the same time encouraged him to become more aware of the democratic process. It has also provided valuable and factual information and informed opinion to the planners, who otherwise would never know it ever existed, which in consequence improves the quality of decisions enhancing the environment.

The individual member of the society now has the opportunity to shape the quality of the environment because of this greater degree of power sharing through the public participation provisions. In both the Reserves and State Forests management planning processes, public participation has been working satisfactorily well for the planners as well as for the general public concerned. It is only a matter of time and more effort before achieving the ultimate aim of participation, a "community participatory design", where citizens, resource professionals and politicians work together to resolve legitimate disagreements and fairly allocate environmental resources.

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Footnotes

- 1 W. R. Derrick Sewell & Timothy O'Riordan: The Culture of Participation in Environmental Decision Making. (1976) 16 Natural Resources Journal 15, 16.
- 2 Ibid. p.16.
- 3 The increase of public interest in environmental planning in United States, United Kingdom and Canada is comparatively explained <sup>by Sewell + O'Riordan.</sup> Ibid. pp.4-10.
- 4 The situation was changed in 1976 when the Forests Amendment Act was passed, it provided public participation which is essentially what this study has explored.
- 5 Mr. W. D. R. McKerchar. Assistant Director of National Parks. Department of Lands and Survey.
- 6 It is defined in S.2 of the 1977 Act, which includes Board, Trustees, local authority, society, association, voluntary organization, or person or body of persons, whether incorporated or not, appointed under the Act. It also includes Minister of the Crown (other than the Minister of Lands) so appointed.
- 7 The exceptions are, (i) government purpose reserves (ii) a local purpose reserve (S.41(16)) and (iii) recreation reserves vested in or controlled and managed by a local authority (S.41(13)).
- 8 Guides and Policies in the Exercise of the Reserves Act 1977 No.1 Preparation of Management Plans for Reserves. Published by the Department of Lands and Survey (1978) para.4.9.2.
- 9 These respective classifications are done under SS.17-23 of the Act.
- 10 The public notice has to comply with S.119 of the Act which requires publication of the notice in a newspaper circulating in that area plus other newspapers circulating in Auckland, Wellington, Christchurch and Dunedin.
- 11 Guides and Policies (Lands and Survey Department) op.cit. para.7.2.

- 12 See the discussion on pp.1-2 (supra).
- 13 To obtain the public opinion at the very early stage would produce the best public participation in the decision-making proces.
- Mr. A. Kirkland, Assistant Director-General of the (N.Z.) Forest Service.
- 14 Mr. M. Hosking, Assistant Director of Production, Forests Management Division, (N.Z.) Forest Service.
- 15 The results of the representations are persuasive only and the Minister's decision is reserved for political determination.
- 16 If anyone who opposes the Minister's decision, he has no opportunity under the Act to make further representations. There is no provision for a hearing by a Planning Tribunal as it exists under the Town and Country Planning Act 1977.
- 17 The Department is responsible to prepare management plans for the coastal islands such as the Snares, Bounty and Antipodes Islands. Mr. W. D. R. McKerchar.
- 18 In this study the "administering body" will be considered in relation to the operation of the Wellington City Council only because of the emphasis put upon the important role played by local bodies throughout the country in controlling most of the reserves under the Reserves Act 1977.
- 19 Mrs. D. Menzies, Professional Assistant to the Director of Parks and Reserves, Wellington City Council. Many open spaces whether they come under the Reserves Act or not are under the control of the WCC.
- 20 Reserves for the purposes of scenic, historical, nature and scientific (SS.18-21).
- 21 The period begins from 1st April 1978 when the Reserves Act came into force.
- 22 Guides and Policies, Department of Lands and Survey, op.cit., para.2.3.1.
- 23 Mrs. D. Menzies (WCC). It is also difficult for the public to participate without a draft management plan.



- 24 The authorities may be reluctant to change the management plan which had been prepared with so much time and effort used. Mr. W. D. R. McKerchar, Department of Lands and Survey.
- 25 Section 4(6)(b) requires the Council to give notice in writing to those who participated in the first stage under subs.(5) to again participate in the draft management plan stage.
- 26 Action for Environment; Royal Forest and Bird Protection Society.
- 27 Mr. D. G. Collingwood, National Conservation Officer, Royal Forest and Bird Protection Society of New Zealand.
- 28 The Council finds that most submissions from individual members of the community are brief and short. The interest groups and research organizations tend to submit consistently lengthy researched documents. Mrs. D. Menzies.
- 29 Mr. D. Collingwood.
- 30 It may be a little early to support the conclusion made by the Council which finds it extremely satisfactory in dealing with some interest groups. At the top of the Council's list were Bolton Street Memorial Ground Society and the Zoological Society. Mrs. D. Menzies.
- 31 The Council finds that the provision of public participation had made research organizations, other government services (e.g. the DSIR), are now able to make valuable contributions as well.
- 32 Mrs. D. Menzies. "The only thing regrettable is that the public participation has to be provided by the law to do it; it would have been greatly significant if it had been achieved by a natural process of public contributing and the Council responding."
- 33 In preparing a management plan expenses for legal fees and a proper land survey cost a substantial sum of money, more than \$2000 per reserve. Public notices put in newspapers cost less than \$100 for one reserve which is significantly low compared to the whole.
- 34 Mr. D. Menzies carefully distinguished between the word "cumbersome"

and "delays". She thinks "delays" involve prolonging a matter sometimes, for unnecessary reasons but "cumbersome" is a heavy burden required by all means for the efficient and thorough administrative process.

35 This may not be particularly long period in considering the importance of a management plan which would be a document administering the particular reserve's development for at least five years.

36 Mrs. D. Menzies (WCC). Mr. W. D. R. McKerchar (Department of Lands and Survey).

37 Some management plans contain confidential information on wood volumes available and proposed land acquisitions, as well as other confidential commercial matters involved. Mr. V. S. Young (Minister of Forests). 403 N.Z.Parl.Deb.3070, 13th October 1976 "Forests Amendment Bill".

38 Mr. M. Hosking, N.Z. Forest Service.

39 It was decided by the Minister that there was no sufficient public interest in the exotic forest area at the present. The Service sees that in the coming five or ten years' time, exotic forests issue will become a "hot issue" as the indigenous forest policy is at the present. Mr. M. Hosking. See also n.69 (infra).

40 Since those opportunities are dependent on the grace and wisdom of particular decision-makers, the distinction between rights and opportunities to participate is critically important.

41 Submissions on West Taupo State Forests. Published by the (N.Z.) Forest Service (Wellington, 1978).

42 Mr. M. Hosking. He further added that the officials who categorize and summarize the submissions are "objectively" aware of all relevant issues.

43 The number of people behind the submissions are unknown because the Service only regards an individual submission, maybe from several persons, as representing one opinion.

44 Some brief submissions were too repetitive and short that they do not

carry much significance as other well discussed submissions. Mr. A. Kirkland.

45 Mr. M. Hosking.

46 Mr. A. Kirkland.

47 The NFAC in its campaign "Please write a submission to stop logging in Whirinaki" (1979). It encouraged all individuals to send in written submissions and also for them to ask their friends to do the same.

This was done to increase the number of submissions.

48 The NFAC in its news letter pamphlet stated that "... it is the number of submissions expressing a particular viewpoint that is counted by the Minister or Government." (1978. Auckland Branch).

49 NFAC (Wellington Branch), news letter (1979) "Campaign Whirinaki".

50 Less than 1% (15 submissions to be precise, out of 1735) supported the Service management proposals for a continuation of logging. Submissions on the West Taupo State Forests. op.cit., p.14.

51 The groups have never missed an occasion to respond to an invitation to participate. Mr. A. Graham: Environment and Conservation Organisations of New Zealand.

52 Mr. A. Kirkland. He would not actually give examples. The situation where members of the NFAC climbed into and hid in giant totara trees in the West Taupo State Forests might have been one occasion that impeded the Service's operations.

53 Conservator of Forests, Mr. Ure. The Wellington Evening Post, August 25th, Saturday, p.12, Col.3.

54 Mr. A. Graham (ECO).

55 ECO, NFAC and RFBPS are calling for more open decision-making. "On the Environment" Salient, 11th June 1979, p.4.

56 The Ombudsman, Mr. Laking, described the spread of secrecy of governments and their servants as a plague. Dominion editorial "Right to Know" The Dominion, February 24th, Saturday, 1979.

- 57 Beverley Wakem, Controller of Programmes, Radio New Zealand, (with Howard Gough, Development Planning Manager, Radio New Zealand). "Communication of Information" Paper presented to the Symposium on Public Involvement in Environmental Planning. Wellington, N.Z., 26-27th February 1979.
- 58 In the Environmental Forum, Victoria University of Wellington, 7th August, 1979.
- 59 Being a public servant as well as a member of an active interest group, this individual requested not to be named.
- 60 Northwest State Forest Park (Nelson).
- 61 Baric, Lorraine F., The Meaning of Citizen Participation in Urban Renewal, Urban Renewal 1968, University of Salford 1968.
- 62 See, n.(40) p.15 (supra). The opportunity to participate exists before a line of action already drawn up and it would not be an induced participation. The situation would incline to be an indicative participation, not as strong as in the Reserves area where the public has the defined right to influence events.
- 63 A limited chance because this procedural requirement is only an administrative permission which can be removed anytime. If the Legislature would incorporate this stage as a statutory provision, the opportunity to participate would be stronger. See the discussion on p.22 (infra).
- 64 The Minister's decision concerning the preservation of the West Taupo State Forests may be taken as an example.
- 65 In the 1975 General Election, the National Party incorporated its conservation policy of native forests in its election manifesto.
- 66 In deciding to save the West Taupo State Forests, the Minister stated that "... the Government had to weigh the severe economic consequences for the taxpayer (in this occasion \$3.75m) and the

effect on rural communities against the desire for a long term yield of native timbers and increased preservation of forests."

The Evening Post, 14th August, 1979, front page.

67 The Service is an arm of the Government and once the Cabinet decides a particular policy it becomes an instrument which the Service is bound to implement at any cost. Mr. A. Kirkland.

68 In practice the Minister has quite correctly decided that in all management planning for indigenous forests, the public is always to be invited to participate. See the policy reasons for his discretion, p.15 (supra).

69 For instance, the Service found that when an advertisement called for public submissions on an exotic forest management plan, there was not sufficient public response received by the Service. Mr. M. Hosking.

70 Mr. A. Kirkland. He also suggested that to provide a meaningful public participation the Service will supply sufficient information to the general public.

71 This is not only in New Zealand but also in other countries such as the United States, United Kingdom and Canada. Sewell & O'Riordan op.cit., pp.4-10.

72 Especially when an interest group, however small, is determined to stop something at any price and refuses to discuss, compromise or accept alternatives which will only engender confrontation. G. A. Town, Director, Town and Country Planning Division, Ministry of Works and Development. "Public Participation in Planning" paper presented at the 1979 Public Symposium.

73 In representing the views of their members. Mr. D. Collingwood (RFBPS) and Mr. A. Graham (ECO).

74 Many major submissions were presented by the interest groups in both the Forests and Reserves areas where the planners found it to be very helpful. Mr. M. Hosking and Mrs. D. Menzies.

- 75 G. A. Town. op.cit. He suggested to examine the various techniques explained in the "Public Participation in Planning" a booklet published by the Town and Country Planning Division (September 1978). To open up more public participation, it was found that availability of more information is crucial, which would also reduce excess pressure group participation.
76. Ibid.
- 77 Ibid.
- 78 Mr. P. Gresham, Commission for the Environment.
- 79 Most interest groups at the present are better off than individual members of the community in obtaining information because of their organized nature and the knowledge of where to get the information from. Mr. D. Collingwood.
- 80 Mr. A. Kirkland sees that the Official Secrets Act has no inhibition on the management planning process, because under the Act (Forests) the statutory opportunity is provided for the public to inspect the relevant documents.
- 81 See pp.18-19 (supra).
- 82 Mr. D. Collingwood.
- 83 Reservations *in* open decision-making can even be seen in the upper-middle level of officials. When the proposition to hold public meetings to provide more closer contact with the public was put, Mr.M.Hosking (Assistant Director of Production) strongly rejected it as a waste of time and effort for little or no improvement. However, the Assistant Director-General of the Service, Mr. Kirland, sees differently that the provision of public meetings is highly desirable and the Service in the future will be encouraging the holding of public meetings if progressive decision-making would result.
- 84 See p.19. Mr. A. Kirkland's explanation that "it needs time to change the people's secretive attitude".

PERSONS INTERVIEWED

Mr.D.G.Collingwood, National Conservation Officer, Royal Forest  
and Bird Protection Society of New Zealand.

Mr.A.Graham, Environment and Conservation Organisations of  
New Zealand.

Mr.P.Gresham, Commission for the Environment.

Mr.M.Hosking, Assistant Director of Production, Forests  
Management Division, N.Z.Forest Service.

Mr.A.Kirkland, Assistant Director General of N.Z.Forest Service.

Mrs.D.Menzies, Professional Assistant to the Director of  
Parks and Reserves, Wellington City Council.

Mr.W.D.R.McKercher, Assistant Director of National Parks,  
Department of Lands and Survey.

Ms.H.Reinforth, Secretary, Action for Environment, Wellington.

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