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# SIMULTANEOUS PREPARATION AND REVIEW: A NEW APPROACH TO ENVIRONMENTAL ASSESSMENTS IN NEW ZEALAND

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**PROFESSIONAL  
PRACTICE**

**SIMULTANEOUS PREPARATION AND REVIEW:  
A NEW APPROACH TO  
ENVIRONMENTAL ASSESSMENTS IN NEW ZEALAND**

*Helen R. Hughes*<sup>1</sup>

**INTRODUCTION**

The value of reviewing environmental assessments is recognized in several countries and is carried out in different ways. The use of complex technical information has in some instances resulted in the establishment of specialized agencies for document review, such as the Federal Environmental Assessment Review Office, Canada, and the Netherlands Commission for Impact Assessment. Public participation in the review of assessments has at times led to expensive hearings and public forums.

Recent changes to legislation and government restructuring in New Zealand have provided the opportunity to initiate new and more cost-effective ways of carrying out such reviews.

**GOVERNMENT RESTRUCTURING IN NEW ZEALAND**

The restructuring of New Zealand's central government in 1987 and the assignment of environmental management responsibilities to local government through the Resource Management Act of 1991 left a gap in the government environmental assessment review system. The Commission for

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the Environment was eliminated; it was the central government agency that carried out audits of environmental impact reports commissioned or prepared by the central government (Commission for the Environment 1981). The central government is no longer directly involved in the preparation of environmental impact reports, nor in their auditing. Instead, local government is responsible for ensuring that applications for planning approvals have environmental assessments. Nevertheless, there are still occasions when Crown entities or corporations that have shareholding ministers need to consider the environmental effects of their proposals.

A Parliamentary Commissioner for the Environment (hereafter referred to as the commissioner) was appointed as a part of government restructuring. As an officer of Parliament independent of the government, this person acts as a check on the soundness and performance of the environmental management system initiated by the Environment Act of 1986. The need for an independent opinion or review on environmental impact assessments was recognized by the commissioner for situations where—

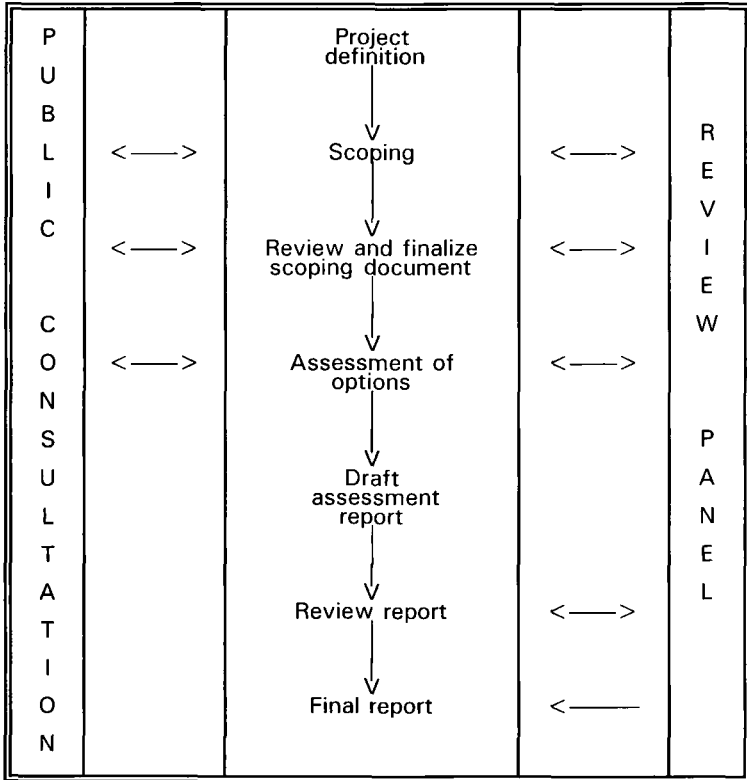
- a proposal by a corporation with shareholding ministers, or a state-owned enterprise, is the subject of significant public debate; or where
- there is a perceived conflict of interest when a local government body that is acting as the regulator is also a major shareholder in a company seeking consent for a major development.

Therefore, the commissioner has begun conducting independent reviews of environmental assessments with the agreement of the public authorities or the corporations concerned. The procedures used are different from the former environmental impact audits.

### **REVIEW PANEL PROCESS**

The commissioner arranges for a Process Review. (See figure 1.) The process review begins at the same time as the environmental assessment. The process review panel reviews the terms of reference for an assessment and makes recommendations on the scope of the assessment and on who should be consulted. The panel also checks that the requested consultation takes place. The panel may report to the public on the progress of the assessment several times during the planning of a proposed development.

**Figure 1. Environmental assessment process**



By the time the environmental assessment is completed, the process review panel is able to assure the public that the assessment covered all the critical aspects, that the appropriate technical information was obtained, and that all the necessary public involvement was completed. The review report and the environmental assessment are released together. The public is then able to have confidence that the environmental effects of a proposal have been identified and that planning and design to avoid, mitigate, or alleviate the adverse environmental effects have been considered.

The process is cost-effective in that the review is not conducted after the assessment is completed. It avoids the situation in which a major problem is

identified in a follow-up review and the developer is required to totally redesign the project.

### **REVIEW PANEL SELECTION**

If the proposal is a complex one, it is important to have process review panel members with needed technical expertise. Because a proposal may be one that affects the well-being of a community, it is also important to have people who can appreciate local concerns. This raises the question of whether people who are directly affected by the proposal should be on a panel. A panel should be neutral and independent. Accordingly, the commissioner decided that no stakeholder (anyone with a vested interest in the proposal, a member of an affected community, or a public authority who would be asked to process any application for approval) should be a member of a panel. Because of the perceived need to have an independent review, the panel is convened and serviced by the commissioner.

Once the decision to use an independent review has been agreed to by the developer and public authorities, the commissioner, calls for nominations to the review panel. Relevant professional organizations are asked to suggest nominees. Depending on the nature of the proposal, organizations contacted may include: the Institute of Professional Engineers, NZ Ecological Society, NZ Chamber of Commerce, residents' associations, civic trusts, environmental and conservation organizations, church ministers' committees, NZ Forestry Institute, NZ Planning Institute, Royal Society of New Zealand, local government, and members of Parliament. Once nominations have been received, a short list is chosen with the assistance of the affected public authorities. In general, an attempt is made to ensure the panel is composed of men and women with a range of skills and experience. If a proposal is known to be controversial, a short list of potential members is circulated to each stakeholder. Stakeholders are asked to identify any person they consider biased or too close to either the developer or the relevant public authority. In this way, a panel is eventually chosen that is acceptable to all parties.

The commissioner has been gratified by the stature and experience of those who have volunteered their services. They, in turn, have found the exercise rewarding.

## THE PROPONENT BENEFITS FROM AND PAYS THE PANEL

The release of a review document, together with an environmental assessment, provides valuable information to consent-granting agencies, the general public, and the proponent or developer.

Before the review document is released, the process review panel can determine that further information from the proponent is required or that further mitigation measures should be planned. Early feedback while the assessment is ongoing gives the proponent the opportunity to amend planning and design before seeking the consent of public authorities. It helps the proponent make changes in a more efficient manner. Proponents have recognized this as a desirable feature and have been willing to negotiate with the commissioner to set a budget to cover review costs. The review can be regarded as an insurance policy for the proponent. It assists in ensuring that all adverse effects have been identified and that appropriate remedial or mitigation measures have been introduced.

In order to ensure there are no claims that the review has been “purchased” by the proponent, all panel member claims for payment are first approved by the commissioner before being forwarded to the proponent. Fees for panel members are generally calculated using a local government meeting rate and disbursements for expenses are met in full.

The elapsed time for a review generally equals the time taken to prepare an assessment, which may be up to two years. But the actual time spent by panel members is closer to two to three weeks. Secretarial support (one staff member) is provided to panel members from the commissioner’s budget.

## EVALUATION OF REVIEWS

Two independent process review panels convened by the commissioner to date dealt with transport facilities—a passenger rail station (Parliamentary Commissioner for the Environment 1992) and an airport expansion (Parliamentary Commissioner for the Environment 1994). In each case, the panel carried out their own consultation with the public by arranging meetings with affected groups and releasing regular progress reports. In both cases

information that was evaluated during the assessment process resulted in plans being changed and the final development being largely acceptable to the public.

A third process review was convened for a monitoring program (Parliamentary Commissioner for the Environment 1995). A port company sought consent for a dredging operation and permission to dump the spoil at a site in the Hauraki Gulf. Because of intense opposition by environmental groups and local indigenous people, consent was given for initial maintenance dredging with the condition that a rigorous monitoring program to assess the effects of dumping the spoil would be carried out. The public raised doubts as to the impartiality of the public authority and whether the monitoring program would be effective. Since monitoring results could determine whether future dumping of spoil would be permitted in the Hauraki Gulf, public distrust was of concern. Scientific experts were sought for a process review panel. The scientists chosen had never worked for the port company and were acceptable to all stakeholders. As a result of the scrutiny by the panel, changes were made to the program after one year. Some parts of the program were halted since no further meaningful data would have been obtained and new measurements were introduced that would more clearly establish whether the site was a containment site. The expert technical review provided assurance that the scientific data being collected and its evaluation were appropriate. It also provided the public with some assurance that the monitoring program was a credible one.

## **CONCLUSIONS**

Independent process reviews carried out by nongovernmental people can perform the following useful functions:

- ▶ They ensure adjustments to assessments and mitigation plans are made as early as possible.
- ▶ By involving well-known organizations in the nomination of process review panel members, they earn the respect and confidence of both the public authorities and the proponent.
- ▶ By involving local experts or members of a community in a panel, they earn the respect of the public.



- ▶ Ownership of the process is accepted by the public authority and the proponent.
- ▶ By carrying out the review on an agreed time scale, accurate budgets can be set.
- ▶ Because the panel is proactive and meets with key interest groups, consultation is meaningful and effective.
- ▶ The public is kept informed by the panel's progress reports to the community and the media.
- ▶ Subsequent statutory planning and consent proceedings are more focused, involve fewer parties, and hence are more cost-effective.

Finally, the giving of time and experience for a review by members of the public is a tribute to those citizens who believe in giving something back to the community that has supported them.

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