

exciting and hopeful development in New Zealand politics.”

Eric Bennett did not let Salmon's euphoric view of the Blakeley accord go unchallenged. On Feb. 20 he wrote as follows: "Replying to Guy Salmon's worst apologia (NBR, January 30). I do not support the process by which the Blakeley 'agreement' was achieved. Direct horse trading between opposing interests, with the result dependent on the relative strengths of the parties involved, is no way to arrive at sound resource allocation or any other decision. Might and wisdom are seldom synonymous, and power politics have, with good reason, always been

condemned by conservationists.

"This Government, like previous Governments, has refused to face West Coast realities but, more crafty (or cynical?) than its predecessors, it abdicated responsibility for unpopular decision making and left the warring parties to find their own solution.

"Predictably, some signatures to the final 'accord' were only obtained under threat and were repudiated immediately afterward. So much for the 'accountability' and the 'best possible consensus solutions' that so impress Salmon! What remains is a carve-up between millers and preservationists at the expense of conservation."

Unimpressed also with the *modus operandi* was Mr J.C. O'Regan of the West

Coast United Council, who wrote subsequently at some length describing "the fruits of the dialogue as it affects people," and inter alia quoting details of total and available forest areas on the Coast. Space does not permit O'Regan's full and rather bitter analysis to be summarized here. On March 6, Mr Michael de Hamel of Kaiapoi replied, pointing out with massive irrelevance that for every man, woman and child on the West Coast there are over eight hectares of production forest and no less than 35 hectares of protected forest and reserve.

Two further letters were later published.

A.P. Thomson

## RECENT EVENTS

### Review of 1977 Town and Country Planning Act needed, but don't throw out the baby with the bathwater

Government has appointed Mr Antony Hearn, a barrister with considerable experience in planning law, to carry out a comprehensive review of the Town and Country Planning Act (TCP Act).

Mr Hearn's brief is to establish whether any changes are needed to the Act in the interests of ensuring flexibility and speed of decision making in relation to regional and local planning. He was to present his report by April 1, 1987 to a Cabinet Subcommittee. It is likely that Mr Hearn's review will then be made available for public comment before any change is made to the Act.

In this issue readers are provided with background material which might help them if they are interested in preparing their own submissions after the Hearn report comes out.

A paper reviewing the experience of the forestry sector with town and country planning since 1977 is included. (Refer p.28 "More market; planning; forestry and farming. Antagonism or Symbiosis?" by A.D. Meister.)

A workshop on the Town and Country Planning Act review was sponsored jointly by the Ministry for the Environment and the NZ Planning Institute in Wellington on February 17 and 18, 1987. The following are some ideas relevant to forestry which came out of that seminar. They draw much from presentations made by Brent Wheeler and Bill Williams.

#### STRENGTHS OF THE 1977 TCP ACT

The average NZIF member probably has the impression that the 1977 TCP Act has been an unmitigated disaster impeding forestry development in regions like the King Country and Marlborough, Waiapu, Wairoa,

Hobson, Clutha and Cook counties, and does not appreciate the many strengths of the Act which include the following:

- (a) The planning system is evolving by case law.
- (b) The Act is permissive, in the sense that it does not direct specific land use to specific locations.
- (c) It caters for an independent appeal tribunal which is beyond political interference.
- (d) The open Government associated with the Act discourages corruption.
- (e) There is wide opportunity for public participation.
- (f) It makes planning a mandatory regional function.
- (g) It expresses the community position on development.

(h) It provides a facility for managing change.

(i) It provides a mechanism for exposing and resolving conflict.

(j) Property rights are extensive.

#### WEAKNESSES OF THE 1977 TCP ACT

Knowledgeable planners agree that the Act has shortcomings. Some of them were expected from the outset, e.g. you can not have rapid processing of district schemes and have full democratic participation. Allowing for this, and problems associated with the Act's shake-down over the last decade, ongoing weaknesses can be identified. They are:

- (1) The process can be unduly protracted and expensive.



- (2) The process can be too expensive for some counties to afford.
- (3) There is no control system to rectify poor performance by some counties.
- (4) The schemes produced under the Act are difficult to enforce.
- (5) There are still doubts about to what extent the Crown is bound by the Act.
- (6) The process is adversary based "with the winner taking all".
- (7) The process is complicated, meaning less access for socially or culturally disadvantaged groups.

#### SUGGESTED REFORM OF THE 1977 TCP ACT

1. Replace adversary based winner takes all solutions to planning problems with negotiated solutions based around mediation processes. Mediation processes have the advantage that the ultimate authority belongs to the participants themselves; thus they have a significant incentive to produce workable solutions. A unique solution may be negotiated without restrictive regard to precedent and the setting of precedent, and a comprehensive mix of needs and interests deemed relevant by the participants can be taken into account. While the need for imposed judgements may not disappear completely, international and local experience with Small Claims Tribunal and Family Court

approach suggest that it can diminish sharply (Folberg 1984). The Blakeley committee's judgement of North Westland land use is a good example of this.

2. Improve the incentives to performers and increase disincentives to poor performance in decision making. At present the disincentives to poor decision-making by local authorities are low. A more transparent costs system which reflected closely the costs of poor decision-making would prove a stronger incentive to performance.
3. Widen the scope for compensation so as to make the costs of planning interventions more transparent and to create strong incentives for examining closely the effects of specific controls and regulations. Widened scope for compensation would also increase incentives for negotiated solutions and higher calibre decision-making.
4. Making more extensive use of private property rights. For example, if a group of farmers in a given valley wish to restrict forestry development there is no reason why they cannot form some type of Trust to covenant their property titles in an agreed manner to prevent/encourage certain forms of development. Such an approach demands that the individuals involved face the true costs of the restriction they wish to put in place, negotiate

directly with the parties involved and derive such benefits which the resulting contract would offer. This approach may be contrasted with present systems in which planning systems may be harnessed at little individual cost to those benefiting in order to impose and enforce a set of preferences, the wider costs of which are not made explicit.

5. Do not ignore the usefulness of the market in helping sort out what is good for society. In particular, move away from picking winners, as is currently typified by section 3 of the Act. Foresters of course have long been astonished by section 3d which requires the protection of land "having high actual or potential value for the production of food", as if the production of shelter and fibre were not equally important for humanity.

Where intervention is desirable it could be achieved via other legislation, e.g. through the Conservation Act. To this end it is laudable that Government is currently reviewing the Mining Act, the Water and Soil Bill, and Environmental Assessment Procedures at the same time.

#### REFERENCE

Folberg J. 1984 'Mediation, a comprehensive guide to conflict resolution' Jossey Bass Inc, San Francisco.

H.H. Levack

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