

# ACT Resource Management Act Policy

## **Goals**

- To provide for compensation for the removal of common law property rights.
- To focus environmental legislation on specific cases in which it can clearly achieve superior outcomes to common law processes.
- To alleviate its excesses, while it remains in place, by seeking opportunities to move back to common law disciplines in terms of standing, definition of harm, and awarding of costs and remedies.

## **Background**

### **The Resource Management Act 1991:**

- is one of the greatest obstacles to economic development in the country.
- has a number of bad environmental aspects.
- attacks the sanctity of property rights and therefore individual freedom.
- overrides common law mechanisms, processes and procedures for resolving conflicts and in doing so, it evades proper economic and constitutional considerations.
- creates compliance costs which are a major concern for the business and farming community and compliance with the Act has become a bureaucratic nightmare
- destroys lives of decent citizens, emotionally and financially.
- uses the fuzzy concept of sustainable management to exercise arbitrary power over landowners and developers.
- allows property owners to be intimidated, held up, blackmailed and even bankrupted by bureaucrats, competitors, and opportunistic objectors.
- tears small communities apart by politicising issues.
- creates incentives that work against preservation and conservation to the degree that it turns assets into liabilities as far as property owners are concerned.
- unleashes forces predatory in nature as illustrated by the heated resistance of objectors to the payment of compensation for regulatory takings.

## ***Principles***

- The RMA illustrates most of the legislative failings that are listed in ACT's discussion papers on the environment and conservation, and regulation.
- Its flaws are so fundamental that no amount of tinkering can solve them. Centrally planned development is not a sustainable activity.
- There is no substitute for a detailed category-by-category analysis of the case for overriding the common law, and of the nature of the optimal intervention (if any) in each case.
- There should be no presumption that overriding 'umbrella' legislation is desirable. The best solutions to problems in the common law relating to non-point source pollution, for example, might be found only on a case-by-case basis.
- The RMA should not be considered in isolation. It is merely a manifestation of a general approach.

## ***Policy Detail***

- Review the RMA on a first-principle basis, removing all the generalized central planning and command and control elements. Replace it with case-by-case regulations where they are necessary to supplement the common law.
- Restore a much greater role for common law actions and remedies.
- In the interim, seek opportunities to:
  - restrict its scope to areas where the common law could be deficient
  - refocus it on achieving a balance of benefits and costs rather than on particular outcomes
  - remove the extremism embodied in the presumption that there are absolute environmental and conservation values. Benefits, as valued by persons, must be balanced against costs.
  - move to restore common law disciplines that relate to standing, definition of harm, remedies for injunctive relief and awarding of costs.
  - increase the liability to pay compensation for regulatory takings
  - strengthen the requirement in section 32 to consider alternatives to regulatory controls and to assess costs and benefits in relation to regulatory takings
  - strengthen the need to address the issue of compensation where private property is taken or regulated for public good purposes

If you believe that the Resource Management Act attacks the sanctity of private property rights, and is preventing much needed development, then **give ACT your Party vote.**