FORUM ARTICLE

Assessing significance under the RMA – moving forwards: a reply to Walker et al. (2008)

David A. Norton[1]* and Judith Roper-Lindsay[2]
[1]Rural Ecology Research Group, School of Forestry, University of Canterbury, Private Bag 4800, Christchurch 8140, New Zealand
[2]Boffa Miskell, PO Box 110, Christchurch 8140, New Zealand
*Author for correspondence (Email: david.norton@canterbury.ac.nz)

Published on-line: 27 August 2008

Introduction

Walker et al. (2008) are critical of the methods used by ecologists and others with 'vested interests' to identify significant biodiversity values and provide for their protection under the Resource Management Act (1991) (RMA), particularly the use of the draft criteria proposed in Norton & Roper-Lindsay (2004). However, we believe that their criticism is flawed because of their failure to fully understand the context of the Norton–Roper-Lindsay criteria; unjustified presumptions they make about the roles of ecologists in assisting those applying for resource consents and administering the RMA; and a failure to take into account the current realities of native biodiversity conservation for those parts of New Zealand covered by the RMA. In this reply we address these issues and outline a way to move forwards in this debate.

Norton–Roper-Lindsay criteria

Norton & Roper-Lindsay (2004) was developed from a draft discussion paper prepared for the Ministry for the Environment (MfE) after a process of workshops and discussions addressing Section 6(c) (Norton & Roper-Lindsay 1999). There was a divergence of views on the discussion paper, which together with staff changes within MfE meant that a 'final' paper was never published. However, some local authorities used the criteria in the draft discussion paper during preparation of district plans.

The purpose of the 1999 discussion paper (and the 2004 paper) was to provide a stimulus to discussions amongst ecologists and planners to advance ecological thinking on the identification and management of ecological values under the RMA. At the time the discussion paper was developed the word 'biodiversity' was not in the RMA (being introduced through amendments to Sections 30 and 31 in 2002). The New Zealand Biodiversity Strategy was also in its early stages of development and there was little case law to guide local authorities on these matters.

The primary purpose of the RMA 1991 is to '*promote the sustainable management of natural and physical resources'* (Section 5(1)), and in that context, an approach to managing ecological values which is based on landscape ecology principles, integrating social, natural and physical systems, seemed (and still seems) appropriate. Walker et al. (2008) do not appear to understand the role of Section 5(1), or that no one part of Section 5(2), or Sections 6 (including 6(c)), 7 or 8 predominates; the RMA does not provide for an environmental-bottom-line approach as Walker et al. (2008) imply (Skelton & Memon 2002).

The specific focus of the MfE Discussion Paper was identification of significance under Section 6(c), and we anticipated that *'areas not identified as significant in terms of Section 6 (c) may still have significance in terms of other ecological values'* and that these would be picked up elsewhere in the RMA (Norton & Roper-Lindsay 1999, p. 40). Nowhere did we suggest in either the report or paper that if an area of vegetation or habitat is not identified as significant under Section 6(c) criteria then it has no value, as implied by Walker et al. (2008).

Importance of biodiversity issues

We share the concern expressed by Walker et al. (2008) about the state of New Zealand's indigenous biodiversity and the need for ecologists to actively pursue positive management through a range of methods (regulatory, market and voluntary). There is no disagreement about the ecological values in New Zealand – they are outstanding and many are highly threatened. All land/water managers

in New Zealand whether government, local authority, community groups or private individuals have to decide on management priorities, as resources are inevitably limited.

The Norton & Roper-Lindsay (2004) criteria suggested that only the most valuable areas of indigenous vegetation or habitat should be identified as 'significant' under Section 6(c) but that other ecological values should be managed under other sections of the RMA. More recently Sections 30 and 31 have provided opportunities to look at biodiversity management more widely. The difference between the criteria we proposed and the 'broad and inclusive' criteria suggested by Walker et al. (2008) thus seems to be one of where the bar should be set by local authorities when they identify the most important ecological values in their district/region. Norton & Roper-Lindsay (1999, 2004) suggested that the bar should be set high to identify and protect the highest value areas under 6(c) while identifying and managing other ecological values under Sections 7 and 8 (and more recently Sections 30 and 31). The risk of taking the 'broad and inclusive' approach of Walker et al. (2008) is that all areas of native vegetation and habitat will be potentially available for clearance as they are all of equal value.

Vested interests

Walker et al. (2008) make some very strong statements about 'developers' and 'their advocates' with serious implications of bias in the application of ecological criteria by local authorities. Their paper shows a clear lack of understanding of the role of professional ecologists in advising clients and of how the RMA is applied by local authorities. An expert ecologist who advises local authorities or a developer is likely to adhere to a number of professional standards (including the Environment Court's 'Code of Conduct for Expert Witnesses'). It is incorrect to imply, as Walker et al. (2008) do, that ecologists working for 'vested interests' provide biased advice while those working for 'non-vested interests' provide unbiased advice. However, all ecologists, whether working for 'vested' or 'non-vested' interests, need to be careful not to stray beyond their own areas of professional expertise when providing advice or opinions.

Many local authorities struggle to 'promote the sustainable management of natural and physical resources' while enabling 'people and communities to provide for their …wellbeing' (Section 5). The Act does not in itself determine whether 'private land may be cleared' (Walker et al. 2008, para. 1) but guides communities deciding how to manage land and water. In fact the use of Section 6(c) by local authorities in developing district and regional plans does not prevent clearing per se, it simply determines if a proposed activity should be considered as controlled, discretionary or non-complying.

Moving forward

The Norton–Roper-Lindsay criteria were first proposed in 1999. Since then, experience in their application, changes to the RMA, and developments in biodiversity policy and management at local, national and international levels (e.g. Norton 2008) suggest that they should be reviewed. While we have tried to avoid polarising the debate on significance in this reply, we would be concerned if the contribution from Walker et al. (2008) and this reply do this and as such do not contribute to the long-term sustainable management of native biodiversity. We believe that the identification of significance under Section 6(c) should be a relatively objective process and that the debate needs to move on to determining the most appropriate way to provide for the protection of the values once identified. We therefore suggest that ecologists, planners and lawyers involved with RMA debates should come together to address these different perspectives and provide clear advice to local authorities and others involved in the RMA process. Perhaps such a 'getting together' could be facilitated by the New Zealand Ecological Society, New Zealand Planning Institute and Resource Management Law Association?

Acknowledgements

We thank Mark Christensen, Ken Hughey, an anonymous referee and others for constructive advice on this reply.

References

Norton DA 2008. Biodiversity offsets – two New Zealand case studies and an assessment framework. Environmental Management: in press.

Norton D, Roper-Lindsay J 1999. Criteria for assessing ecological significance under Section 6(c) of the Resource Management Act 1991. Final draft discussion paper prepared for the Ministry for the Environment.

Norton DA, Roper-Lindsay J 2004. Assessing significance for biodiversity conservation on private land in New Zealand. New Zealand Journal of Ecology 28: 295–305.

Skelton P, Memon A 2002. Adopting sustainability as an overarching environmental policy: a review of section 5 of the RMA. Resource Management Journal 10: 1–10.

Walker S, Brower AL, Clarkson BD, Lee WG, Myers SC, Shaw WB, Stephens RTT 2008. Halting indigenous biodiversity decline: ambiguity, equity, and outcomes in RMA assessment of significance. New Zealand Journal of Ecology 32: 225–237.

Editorial Board member: Richard Duncan
Received 26 May 2008; accepted 24 July 2008