

Copyright is owned by the Author of the thesis. Permission is given for a copy to be downloaded by an individual for the purpose of research and private study only. The thesis may not be reproduced elsewhere without the permission of the Author.

**ENABLING DEVELOPMENT: THE IMPACT ON  
RESIDENTIAL AMENITY**

*A Survey of the Experiences of Affected Parties under the RMA*

A thesis presented in partial fulfilment of the requirements for the degree

of

Master of Resource and Environmental Planning

at Massey University, Palmerston North,

New Zealand.

**LINDA DOROTHY CONNING**

**2009**

## **Abstract**

The majority of resource consent applications for land use under New Zealand's Resource Management Act 1991 are not publicly notified. This enables development, through the efficient processing of applications considered to be of minor or localized effect. However written approvals may be required from all persons the consent authority considers adversely affected by such applications. If these approvals are not forthcoming, the application is then subject to "limited notification", and notified, if at all, only to affected parties. A study was undertaken to determine what influences people to give or withhold such written approval, and what were the outcomes for those people. The study sought to discover whether responses within the process mirror wider environmental issues. In 2008 a questionnaire was sent to a sample of affected parties in Tauranga and the Western Bay of Plenty, and in 2009, most of the respondents were subsequently interviewed. The theoretical framework behind the research is broad and ranges from the current planning context in New Zealand to the underlying philosophical concepts of the freedom of the individual and their rights, environmental justice, reasons and motivations behind planning disputes, including underlying psychological factors and the meaning of place. Whilst some responses were predictable, the extent of negative experiences was surprising, suggesting changes in both process and practice would lead to better outcomes for affected parties.

Key Words: RMA, notification, planning process, affected parties, amenity, public interest, rights, justice, environmental attitudes, environmental behaviour.

## **Acknowledgements**

The author would like to thank Dr Caroline Miller of Massey University, as supervisor of this thesis, for general advice and comments on draft material. Ian Luxmore, also of Massey University assisted with initial computer software and technical issues.

I very much appreciate the good advice on getting started from Dr Kay Booth, Suzanne Williams and Dave Marshall, and the Moyes family, who trialed the questionnaire.

The Information Services teams at Tauranga City Council and Western Bay of Plenty District Council made available resource consent files, and Angie Davies provided information about Environment Waikato's environmental attitude survey.

I am especially grateful to the subjects in the study, especially those who completed questionnaires and gave generously of their time and experiences in the interviews. Without them, this study would not have been possible.

## Table of Contents

|   |           |
|---|-----------|
| Abstract .....  | ii        |
| Acknowledgements.....   | iii       |
| Table of Contents.....  | iv        |
| List of Tables .....  | vii       |
| <b>CHAPTER 1 INTRODUCTION.....</b>                                | <b>2</b>  |
| <b>What this Study is About .....</b>                             | <b>2</b>  |
| <b>Research Objectives.....</b>                                   | <b>2</b>  |
| <b>Chapter Outline .....</b>                                      | <b>3</b>  |
| <b>CHAPTER 2 LEGAL CONTEXT .....</b>                              | <b>4</b>  |
| <b>Introduction.....</b>  | <b>4</b>  |
| <b>Background to the RMA in Relation to Affected Parties.....</b> | <b>4</b>  |
| <b>Notification Provisions in the RMA .....</b>                   | <b>8</b>  |
| <b>Side Agreements.....</b>                                       | <b>13</b> |
| <b>Summary .....</b>  | <b>14</b> |
| <b>CHAPTER 3 LITERATURE REVIEW.....</b>                           | <b>15</b> |
| <b>Introduction.....</b>  | <b>15</b> |
| The Planning Context .....  | 15        |
| <b>Justice in Planning.....</b>                                   | <b>16</b> |
| Theoretical Approaches to Planning.....                           | 16        |
| <b>The Public Interest.....</b>                                   | <b>18</b> |
| Rights and the Public Interest .....                              | 21        |
| <b>The Nature of Rights .....</b>                                 | <b>22</b> |
| Individual rights.....  | 22        |
| Planning rights .....   | 24        |
| Third Party Rights - Citizens Rights in Planning .....            | 25        |
| Affected parties.....   | 28        |
| Property Rights .....   | 29        |
| Reverse Sensitivity .....   | 31        |
| <b>Motivation for Behaviour.....</b>                              | <b>32</b> |
| Why people object to developments.....                            | 32        |
| NIMBYism .....  | 33        |
| The complexity of motivations .....                               | 35        |
| Psychological factors .....                                       | 37        |
| Summary .....   | 40        |
| <b>CHAPTER 4 METHODOLOGY.....</b>                                 | <b>42</b> |
| <b>Overview of Methodological Approach .....</b>                  | <b>42</b> |
| <b>Study Design.....</b>  | <b>44</b> |
| <b>The Questionnaire.....</b>                                     | <b>46</b> |
| <b>The Interviews.....</b>  | <b>50</b> |
| <b>Limitations of this Study .....</b>                            | <b>52</b> |
| <b>Summary .....</b>  | <b>53</b> |

|   |            |
|---|------------|
| <b>CHAPTER 5 QUESTIONNAIRE RESULTS.....</b>                 | <b>55</b>  |
| <b>Introduction.....</b>                                    | <b>55</b>  |
| <b>Questionnaire Responses.....</b>                         | <b>55</b>  |
| Attitudes Towards the Proposal.....                         | 55         |
| The Pre-Approval Stage.....                                 | 58         |
| Deciding Whether to Give Written Approval.....              | 59         |
| Notification and Hearings.....                              | 61         |
| What were the Experiences of the Affected Parties?.....     | 61         |
| Improving the Process for Affected Parties.....             | 62         |
| Views on the RMA.....                                       | 63         |
| Environmental Values.....                                   | 64         |
| Summary.....  | 66         |
| <b>CHAPTER 6 INTERVIEW RESULTS .....</b>                    | <b>68</b>  |
| <b>Introduction.....</b>                                    | <b>68</b>  |
| The Interviewees.....                                       | 68         |
| <b>Understanding of the RMA Planning System .....</b>       | <b>69</b>  |
| <b>The Public Interest.....</b>                             | <b>70</b>  |
| <b>Rights .....</b>   | <b>71</b>  |
| <b>The Significance of Place.....</b>                       | <b>74</b>  |
| The values of the place to people.....                      | 74         |
| How the resource consent has changed the place.....         | 75         |
| <b>The Section 94 Experience .....</b>                      | <b>77</b>  |
| Those Who Gave Written Approval.....                        | 77         |
| Those Who Withheld Written Approval.....                    | 78         |
| <b>The Hearing Experience.....</b>                          | <b>80</b>  |
| <b>The Appeal Experience .....</b>                          | <b>82</b>  |
| <b>Side Agreements.....</b>                                 | <b>83</b>  |
| <b>Further Developments.....</b>                            | <b>84</b>  |
| <b>The Section 94 Process – is it ‘just’? .....</b>         | <b>84</b>  |
| Who is Affected - Notification Issues.....                  | 85         |
| Cost.....   | 85         |
| Relative lack of power of affected parties .....            | 86         |
| Information and communication.....                          | 88         |
| The Approach of the RMA .....                               | 90         |
| <b>Implementation .....</b>                                 | <b>92</b>  |
| The Section 94 Process.....                                 | 92         |
| The District Plan .....                                     | 93         |
| Consents.....   | 94         |
| <b>Motivation for Objection.....</b>                        | <b>96</b>  |
| <b>NIMBYism.....</b>  | <b>97</b>  |
| <b>Postscript – Outcomes for the Affected Parties .....</b> | <b>99</b>  |
| Summary.....  | 100        |
| <b>CHAPTER 7 DISCUSSION AND CONCLUSION .....</b>            | <b>103</b> |
| <b>Introduction.....</b>                                    | <b>103</b> |
| <b>Motivation for Behaviour.....</b>                        | <b>103</b> |
| Psychological Factors .....                                 | 104        |
| NIMBYism .....  | 105        |
| <b>Public Interest .....</b>                                | <b>106</b> |

|   |            |
|---|------------|
| <b>Justice</b> .....  | <b>109</b> |
| Power Relations .....   | 111        |
| Side Agreements .....   | 113        |
| Communication and Trust .....   | 114        |
| <b>Rights</b> .....   | <b>114</b> |
| <b>RMA</b> .....  | <b>117</b> |
| <b>Section 94</b> .....   | <b>118</b> |
| Permitted Baseline .....  | 120        |
| <b>Implementation of the RMA</b> .....  | <b>121</b> |
| Planning Practice .....   | 121        |
| Council Monitoring and Enforcement .....  | 124        |
| District Plans.....   | 124        |
| <b>Conclusion</b> .....   | <b>125</b> |
| <b>APPENDIX 1 RMA SECTIONS 93-94D 2003</b> .....                                | <b>132</b> |
| <b>APPENDIX 2 RMA SECTIONS 95-95E 2009</b> .....                                | <b>135</b> |
| <b>APPENDIX 3 EFFECT OF THE 2009 AMENDMENT</b> .....                            | <b>139</b> |
| <b>APPENDIX 4 COUNCIL WRITTEN APPROVAL FORMS</b> .....                          | <b>141</b> |
| <b>APPENDIX 5 INTRODUCTORY LETTER, INFORMATION SHEET AND CONSENT FORM</b> ..... | <b>146</b> |
| <b>APPENDIX 6 QUESTIONNAIRE</b> .....   | <b>149</b> |
| <b>APPENDIX 7 QUESTIONNAIRE RESULTS</b> .....                                   | <b>156</b> |
| <b>APPENDIX 8 INTERVIEW OUTLINE</b> .....                                       | <b>160</b> |
| <b>APPENDIX 9 INTERVIEW EXCERPTS</b> .....                                      | <b>162</b> |
| <b>BIBLIOGRAPHY</b> .....   | <b>163</b> |

## List of Tables

|         |  |    |
|---------|--|----|
| Table 1 | Questions from the NEP Scale and Associated Dimensions                                 | 48 |
| Table 2 | Definition of Levels of Environmental Support  | 49 |
| Table 3 | Scoring of Question 41   | 49 |
| Table 4 | Relationship of Survey Questions to Research Objectives                                | 50 |
| Table 5 | Comparison of Approvals Given With Surveyed Response and View on Completed Development | 56 |
| Table 6 | NEP Scores   | 64 |
| Table 7 | Self-Assessment of Environmental Concern   | 65 |
| Table 8 | Interviewee Time of Residence at Location  | 68 |
| Table 9 | Representation of Interviewees from Specific Applications                              | 69 |