



Brian Joyce LLB asks ...

# Is economic wellbeing getting a fair hearing?

In July this year the Environment Court decided not to permit the development of a large-scale sawmill by Blue Mountain Lumber on the Coromandel Peninsula.

Media coverage of the decision was almost universally couched in terms of the economic significance of the project.

The *NZ Herald* story was typical. It began: "Plans for a \$30 million sawmill at Whangapoua, on the Coromandel Peninsula, have been sunk by an Environmental Court decision that opponents say is a victory for small communities ... the company ... spent \$1 million fighting to get the sawmill built."

Under the RMA, "economic wellbeing" must be taken into account when a resource consent application is being considered.

As the Court elaborated in this decision, it had to make a "comparison of conflicting considerations and the scale or degree of them, and their relative significance or proportion in the final outcome" when determining "whether the proposal would promote the sustainable management of natural and physical resources."

Many environmental and planning considerations were explicitly taken into account. Among them, the provisions of the District Plan, traffic issues, visual amenities, Maori traditional and cultural values, the effects of various contaminant discharges to land and water and air sheds, site rehabilitation, eco-systems and bio-diversity, and so on ...

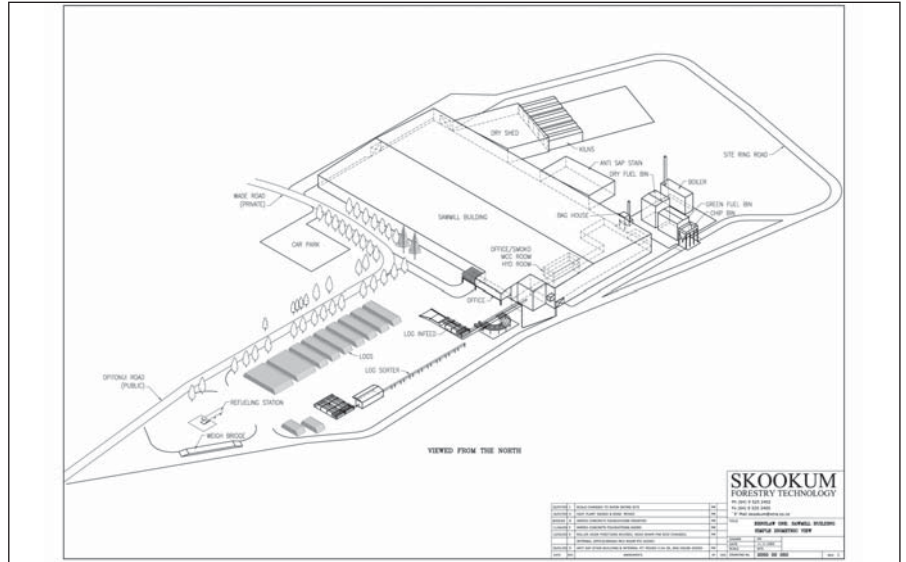
A variety of expert witnesses testified about air quality, noise, archaeology, traffic, visual landscape, Maori cultural issues, water quality, storm and waste-water issues and ecological effects on natural waters.

All, of course, matters one would quite properly expect to have taken into consideration.

Where then in the Court's decision do economic factors feature in this comparison of conflicting considerations?

One is hard put to find them, scattered throughout the 56 page decision mostly in the form of statements describing the proposed mill's operations and their scale. Nowhere is reference made to the \$30 million development cost, a fact that featured so prominently in the press comment.

The importance of the site is recognised: "We



**Concept drawing of the rejected Blue Mountain lumber mill**  
The court's decision did not analyse many of the major economic or employment impacts of the proposed mill

appreciate that from the company's perspective the site is considered operationally suitable in terms of locational convenience, water availability and estimated cost of development. And with that in mind we have anxiously considered all factors that led the company to select the site in preference to alternatives that were canvassed. We are mindful as well of the potential for creating job opportunities at the mill."

But these 'pluses' were deemed to be outweighed by the environmental and social 'negatives':

"After due consideration, we are not convinced that allowing this project to proceed as proposed would serve the purpose of the RMA in terms of social and cultural well-being, but in so concluding we by no means overlook the economic aspect in terms of operational efficiency and the creation of employment opportunity that the mill would generate."

This last passage is particularly significant, effectively dismissing as it does in a few words, the economic relevance of the venture.

Where is the robust and detailed analysis, at least on the scale accorded all the other matters referred to, to demonstrate "a comparison of conflicting considerations and the scale or degree of them, and their relative significance or proportion in the final outcome"?

Where is there consideration, for example, of:

- The annual sales likely to be generated by the plant

- The importance to the country's economy and forestry industry of value-added log processing
- The economic impacts of the proposed mill arising from the expenditure of the plant itself, its employees and contractors and the flow-on effects in terms of full-time equivalent jobs for the region and New Zealand
- An analysis of the value added per worker

There is none. Yet these are matters which need to be rigorously debated when decisions are made on major projects such as this.

The implication must be that evidence along these lines was not put before the Court. However, the Court does itself have power to call for such evidence if it considers it will assist it in its decision.

I do not wish to express a view on the merits of the decision itself, which may well have been proper. But I consider it is an example of the mismatch between the way that consents for significant projects can in practice be dealt with under the RMA process, and the way the public expects them to be handled. I suggest this mismatch should be cause for serious reflection.

*Brian Joyce is a senior partner at Clendon Feeney, a commercial law firm in Auckland. He has extensive experience in law and commerce with particular experience in t resource management and forestry.*

Contact: Tel: 09 306 8001, email: [brian.joyce@clendons.co.nz](mailto:brian.joyce@clendons.co.nz)