



Ministry for the Environment

Submission on Transforming the resource management system: opportunities for change - Issues and options paper

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Submitter Details

1. Nelson Marlborough District Health Board (NMDHB) (NMH) is a key organisation involved in the health and wellbeing of the people within Te Tau Ihu. NMH has a duty to reduce of adverse environmental effects on the health of people and communities and to improve, promote and protect their health pursuant under the New Zealand Public Health and Disability Act 2000 and the Health Act 1956. NMH welcomes the opportunity to comment from a public health perspective on the Transforming the resource management system.

General Comments

2. *Issue 1 – Legislative architecture:* NMH agrees with having an integrated approach and does not think that there should be separate legislation dealing with environment management and land use planning. Land development for human settlement and resource production poses critical impacts on the land itself as well as the water, air, material and energy use therefore NMH does not believe that these can be separated into separated pieces of legislation.
3. *Issue 2 – Purpose and principles of the Resource Management Act 1991:* The consultation document notes that New Zealand's natural environment is now significantly more degraded than it was when the RMA was developed. NMH agrees with the intention of sustainable management but recommends that there is also a focus on improving, restoring or enhancing environmental quality.
4. NMH recommends that Section 5 also includes recognition that the natural world has its own right to exist and regenerate. This echoes the approach taken in Te Mana o te Wai¹, where there is a hierarchy of management obligations included that has the first obligation to protect the health and mauri of nature. This hierarchy of obligations could be incorporated into Section 5 of the Act.
5. Section 6 of the Act identify matters of national importance and Section 7 identifies matters which need to have particular regard to. However within these sections there is no hierarchy. Whilst many matters complement each other, some matters could, in some instances, be mutually exclusive such as S7(d) *the intrinsic values of ecosystem*, and S6(ba) *the maintenance and enhancement of public access to and along coastal marine areas, lakes, and rivers*. In keeping with our comment in paragraph four, the introduction of a hierarchy would bring clarity to the Act.

¹ <https://www.mfe.govt.nz/sites/default/files/media/Te%20Mana%20o%20te%20Wai.pdf>

6. NMH does not support the introduction of separate statements of principles for environmental values and development issues. Human development is inherently intertwined with environmental values therefore the introduction of such statements would be inherently fraught from the onset.
7. *Issue 3 – Recognising Te Tiriti o Waitangi / the Treaty of Waitangi and te ao Māori:* The consultation document states that the Waitangi Tribunal has noted that “the RMA has completely failed to deliver partnership outcomes”. NMH supports strengthening the reference to the Treaty in S8, removing barriers to the uptake of joint management arrangements and making provision for new approaches and partnership arrangements in the management of resources. NMH also supports regular auditing of council performance in meeting Treaty requirements. It is hoped that these changes would result in more equitable outcomes for Māori.
8. *Issue 4 – Strategic integration across the resource management system:* NMH supports the integration of long-term spatial planning that would encompass consideration of economic, environmental, social and cultural wellbeing. In order to deliver on the aforementioned wellbeings, it is important that spatial planning includes environmental protection and restoration, climate change mitigation and adaptation, rural land use change and resource management in the coastal marine area rather than be focused only on housing and urban growth.
9. NMH supports the need for spatial planning for all regions, rather than only being restricted to high growth areas.
10. NMH would support provision for spatial planning either within the RMA or the Local Government Act with statutory linkages to other relevant legislation.
11. *Issue 5 – Addressing climate change and natural hazards:* NMH notes that in the Consultation document in relation to climate change mitigation, the Productivity Commission reflected that there was a varying range of co-benefits and co-harms associated with different land uses and additional incentives or regulation to secure benefits or avoid harms are required. NMH supports the notion that plan rules/or consents for activities which emit substantial quantities of greenhouse gases should consider the climate change effects in order to prevent additional damage.
12. In addition, NMH would support the use of spatial planning to influence the way urban areas develop, to decrease the need for carbon-intensive transportation and improve energy efficiency in the long-term. The original draft Christchurch City Replacement Plan included many provisions for energy efficiency within the

residential chapters², however these were removed because there was not the political support to endorse the chapters. Formally recognising the importance of energy efficiency provisions within the RMA and spatial plans would result in more councils encouraging energy efficiency in the layout and design of development and this would lead to healthier more efficient neighbourhoods. NMH supports the development of national direction to encourage efficient urban form.

13. NMH supports including a reference to climate change mitigation *and adaptation* to Part 2 of the RMA. New Zealand will be badly affected by coastal erosion and inundation, thousands of people will eventually need resettling on higher ground.³ NMH supports the establishment of a policy framework and funding mechanisms for communities to avoid, accommodate, defend and retreat from high risk areas over time.
14. *Issue 6 National Direction:* NMH was pleased to see that the Consultation document has identified the need to ensure that central government's national programme as a whole is coordinated, effective, and efficiently development. It has only been in recent years that national policy statements (NPS) and environmental standards have begun to be set, but NMH notes that at times the NPSs have not completely aligned, this was highlighted in our submission on the NPS on Highly Productive Land. NMH would support the introduction of a Government Policy Statement which would provide strategic direction across the programme as a whole, which then councils can use with their planning documents.
15. *Issue 7: Policy and planning framework*

As noted earlier in our submission, NMH would support the introduction of regional spatial plans.

In regards to requirements for combined plans such as the Auckland Plan or Christchurch Replacement Plan, anecdotally, one of the criticisms that came out of the Christchurch Replacement District Plan process is that whilst the use of independent mediators was accessible for lay people, the hearing process was run akin to High Court proceedings which were difficult for lay submitters to navigate. Organisations such as Health Boards and non-profit organisations were directed by the Hearing Panel to have legal representation which brought unnecessary cost barriers to participation. Therefore if combined plan processes were to be adopted, consideration should be given to enabling the public to

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<http://resources.ccc.govt.nz/files/TheCouncil/policiesreportsstrategies/districtplanning/districtplanreview/Chapter14Residential-part.pdf>

³ https://www.victoria.ac.nz/data/assets/pdf_file/0008/1500857/Boston_Lawrence.pdf

participate as easily as possible and cost should not hamper participation of health organisations or non-governmental organisations.

In addition, the timeframes for the Auckland and Christchurch plans were very short which put those involved in producing and responding to the documents under pressure to deliver results, the risk of this approach is that there could have been too little time devoted to the many complex and important issues.

NMH would support an "outcome" focused planning system rather than an "effects based" system because the planning system would be focused on delivering an explicitly list of defined environmental outcomes.⁴

16. Issue 8: Consents and approvals

Only a small proportion of consents are notified.

In recent years the notification provisions have been altered to improve processing. Public notification of consents is important and can result in the identification of unanticipated effects that were not originally considered. Public notification may mean that adverse health effects could be discovered which can lead to improved health outcomes. Notification allows health boards to consider the potential health effects of applications and public health officials are able to work closely with council officers to establish ways to best mitigate effects. Consideration could be given to significant consents ensuring that Public Health Units are given affected party status by default to ensure that Public Health Units have the opportunity to assess whether there is the potential for any adverse health effects to occur, and offer advice to avoid or mitigate these effects.

17. Issue 9: Economic Instruments

The introduction of economic instruments need to be closely aligned with achieving the purpose and principles of the resource management system in terms improved environmental outcomes for future generations. Economic instruments could be linked to increasing standards and penalties for non-compliance. This approach was identified in the Ministry's publications pertaining to economic instruments⁵. The advantages of introducing economic instruments may include:

- a) raising awareness of the social, economic and environmental costs of environmental damage,
- b) influence behaviour towards how environments are used,

⁴ https://www.rmla.org.nz/wp-content/uploads/2016/09/RMJ_August_2016.pdf

⁵ <https://www.mfe.govt.nz/publications/fresh-water/economic-instruments-managing-water-quality-new-zealand/5-economic>

- c) create incentives for environmental improvements,
- d) raise revenue to help fund environmental improvement initiatives⁶.

18. *Issue 10: Allocation*

NMH agrees that there need to be improvements made to the allocation framework especially in regards to the use of limited resources. The objectives of the Resource Management System should be to stop further degradation and reverse past damage. In terms of allocation, NMH supports the approach taken in Te Mana o te Wai establishing a three-tiered hierarchy of obligations requiring that certain uses must be prioritised over others. In case of the Te Mana o te Wai, the health of the environment (water) is the first priority, the second priority is providing for essential human health needs and then third priority is other consumption and use. In addition, consideration also needs to be given to creating allocation systems that conform with Te Mano o Te Wai and iwi/hapū rights and obligations. In order to do this, there should be no allocation based on grandparenting and no perpetual rights as identified in the Ministry's *Action for healthy waterways*⁷. NMH would like to see this approach be used in regards to making allocation improvements.

19. *Issue 11: System monitoring and oversight*

NMH concurs with the consultation document that there has been insufficient monitoring and collection of data and information on the state of the environment and on environmental pressures. There has been inconsistencies in the way data has been collected across the regions. NMH supports the options that include greater national and local monitoring but recognises that this would require significant funding to undertake this work. Given that different regions require local support in data collection and as well as the need for nationally consistent data, there is the need for funding for local government as well as central government.

20. *Issue 12: Compliance, monitoring and enforcement*

NMH agrees that compliance, monitoring and enforcement (CME) are essential to resource management. Given the amount of environmental decline identified in the Environment Aotearoa 2019 report⁸, it is clear that there has been significant

⁶ Parliamentary Commissioner for the Environment (2006). Changing behaviour: Economic instruments in the management of waste. Wellington. https://www.pce.parliament.nz/media/pdfs/changing_behaviour.pdf

⁷ <https://www.mfe.govt.nz/sites/default/files/media/Fresh%20water/action-for-healthy-waterways.pdf>

⁸ <https://www.mfe.govt.nz/sites/default/files/media/Environmental%20reporting/environment-aotearoa-2019.pdf>

gaps concerning compliance and monitoring around the country. National oversight and direction around monitoring and reporting is important to ensure that better environmental outcomes are achieved. In the recent changes to the Resource Management Bill, NMH expressed its support for the new empowerment of the Environmental Protection Authority to take enforcement action. This will assist Councils to investigate incidents which will, it is hoped, lead to fewer breaches of the RMA thus improving environmental health outcomes.

21. Issue 13: Institutional roles and responsibilities

NMH agrees that the functions in the resource management system need to be allocated to the right institutions. The key functions and roles of responsibilities that need to be clearly defined are around the area of reporting and monitoring. The Environment Aotearoa 2019 report showed that there were very large gaps in our collective national knowledge around environmental monitoring and reporting. This limited knowledge affects our ability to address the extensive list of environmental issues identified in the aforementioned report. Therefore it is vitally important that roles pertaining to national reporting and monitoring are clearly defined to ensure that consistent and current data is regularly collected on a range of environmental matters.

22. Issue 14: Reducing Complexity. The Resource Management Act has been acknowledged as being unnecessarily complex especially for lay people⁹. RMA documents have been written for a range of distinct audiences such as lay people, RMA professionals and consent authorities who all have different needs and goals. Whilst it is difficult to cater to all different users, the usability and accessibility of the RMA needs to be improved so that the RMA is easier to navigate.

⁹ Ministry for the Environment (2017) Research on RMA Plan-User Experience.
https://www.mfe.govt.nz/sites/default/files/media/RMA/RMA_Plan_User_Experience_FINAL_Report.pdf

Conclusion

23. NMH thanks the Ministry for the Environment for the opportunity to comment on *Transforming the resource management system: opportunities for change - Issues and options paper*.

Yours sincerely



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