



Comprehensive review of the resource management system – preliminary questions for initial stakeholder engagement

10 September 2019

Introduction

1. Cabinet has agreed to undertake a comprehensive review of the resource management system, led by an expert Resource Management Review Panel. Feedback is currently being sought on the scope of the review, prior to final Cabinet decisions. The key issues to be addressed by the review are attached (see Appendix).
2. The Minister for the Environment appointed a Panel Chair, the Hon Tony Randerson QC, in advance of other members. The Chair intends to release an issues and options paper for comment later this year. Content for the issues and options paper will be developed over the coming months, in light of input from interested groups and the other Panel members.¹
3. This document outlines in preliminary form (based on the Cabinet paper) a series of questions for stakeholders to inform development of the issues and options paper. It is focused on issues at a high level, and not intended to be comprehensive. Rather, it is intended to stimulate thinking on some of the key issues.

Questions for initial stakeholder engagement

Issues	Options
<i>Structural issues</i>	
A. New Zealand has several overlapping legislative frameworks for land use planning and environmental management, infrastructure funding, urban development and the goals of communities. ² This is thought to create complexity and misalignment.	<ol style="list-style-type: none"> 1. Should a single overarching framework bring together objectives across these domains to provide for better integrated planning? How comprehensive, and at what level of detail, should a framework be? 2. In practical design terms, should such an overarching framework be a separate Act applying across all the relevant statutes, or should the Resource Management Act 1991 (RMA) itself play this role? 3. What role should spatial planning have to integrate planning across the RMA, LGA and LTMA on a national and regional basis, and how would this be achieved?

¹ The other Panel members are: Rachel Brooking, Dean Kimpton, Amelia Linzey, Raewyn Peart MNZM and Kevin Prime MBE ONZM.

² Provision for land use planning and environmental management is contained in the Resource Management Act 1991 (RMA); infrastructure planning and funding is within the Land Transport Management Act 2003 (LTMA) and the Local Government Act 2002 (LGA); the Kāinga Ora—Homes and Communities bill will establish a new framework for planning for urban development.

	4. Are there other ways of achieving consistency between the relevant statutes?
B. There is growing pressure on New Zealand's environment, for example, air, soil and water quality.	<p>5. Should environmental limits have explicit priority over development and other goals? How should environmental limits be set? What does this mean for the concept of "sustainable management"?</p> <p>6. In practical design terms, should the RMA be split into separate statutes for environmental protection and planning for land use and development?</p> <p>7. Should the RMA include a positive obligation to enhance or restore the natural environment when ecosystems are threatened or diminished?</p> <p>8. How should the setting of limits be connected to the allocation of access to public resources within those limits (e.g., allocation of rights to take water, discharge to water or air, occupy marine space)? Should these two functions be combined within the RMA, or separated?</p>
C. There are longstanding issues regarding a lack of explicit recognition for development goals in the RMA. Some argue this has hampered planning for housing and infrastructure.	9. Should the RMA explicitly address development goals, such as for housing and urban development, and infrastructure networks and projects, and if so, how? Or would these matters be better addressed in separate legislation?
D. Cabinet has indicated that the core principles in Part 2 of the RMA are to be upheld, although some changes may be needed to address the structural issues raised.	10. Do you have any further comments on other matters specified in Part 2 of the RMA, and how they are structured? Are there new matters that warrant inclusion or matters that are no longer relevant? Could matters be more clearly articulated or structured?
E. Addressing climate change and natural hazards are important goals for the government. The Climate Change Response (Zero Carbon) Amendment Act (once passed) will be the main framework for reducing greenhouse gas emissions (mitigation), and assessing and responding to risks from a changing climate (adaptation).	<p>11. What changes to the RMA will be needed to align with the Climate Change Response Act?</p> <p>12. Should this extend to considering emissions from activities in planning and consenting?</p> <p>13. What changes should be made to address other natural hazards?</p>
F. The RMA was designed to provide for better recognition and protection of Māori interests in resource management, but some consider that it has not fulfilled this promise.	14. What is needed to address Māori interests and engagement when decisions are made under the RMA?

<i>Functions and processes</i>	
<p>G. Under the RMA:</p> <ul style="list-style-type: none"> a. uncertainty hinders project planning b. the planning process is slow and unresponsive c. the quality of regulation is poor d. the consenting process is too complex e. compliance, monitoring and enforcement is not effective. 	<p>15. What role should more mandatory national direction play, such as through the issue of an NPS or NES? Should this be delivered through a combined instrument, such as a Government Policy Statement addressing issues under other statutes in the resource management system as well as the RMA?</p> <p>16. What changes to planning processes are needed to improve the quality of plans and the speed with which they are developed? Is a one stage planning process, such as used in Auckland or Christchurch desirable? How can we ensure opportunities for meaningful public participation and access to justice?</p> <p>17. Are changes needed to existing provisions to make economic instruments more effective or easier to use?</p> <p>18. What can be done to simplify the various consenting process tracks under the RMA? Can more be done to improve the efficiency of consenting, while preserving the rights of affected parties? Are separate processes needed to ensure timely delivery of major infrastructure projects?</p> <p>19. Compliance and enforcement of consents is inconsistent. Are there specific changes that would make a difference?</p> <p>20. Are there any other critical or systemic issues with RMA functions and processes that warrant attention?</p>
<i>Institutions</i>	
<p>H. Major institutional reform is not a focus of the review; however some change may be needed to ensure functions are allocated to delivery institutions with the right incentives and capability.</p>	<p>21. What are the appropriate roles for institutions exercising authority under the RMA including the Environment Court, Boards of Inquiry, Independent Hearing Panels and the Environmental Protection Authority?</p> <p>22. Are new institutions or processes required to provide science, data and technical assistance (e.g. risk assessment and economic analysis) to local government to support better environmental management?</p> <p>23. Should there be greater oversight of the resource management system to ensure outcomes are delivered, and by whom?</p>

Appendix: Key issues agreed by Cabinet to be addressed in a comprehensive review of the resource management system³

Aspect of RMA	Key issues
Objectives and alignment	<ul style="list-style-type: none"> • Removing unnecessary complexity from the RMA • Strengthening environmental bottom lines, and further clarifying Part 2 • Recognising objectives for development (including housing and urban development and infrastructure networks and projects) • Ensuring the system has sufficient resilience to manage risks posed by climate change and natural hazards • Considering an explicit ability to restore or enhance the natural environment • Aligning land use planning and regulation with infrastructure planning and funding through spatial planning • Considering whether or not to separate statutory provision for land use planning and environmental protection • Ensuring that the RMA aligns with the purpose and processes outlined in the Climate Change Response (Zero Carbon) Amendment Act (once passed) • Ensuring that Māori have a role in the resource management system
Functions and processes	<ul style="list-style-type: none"> • Examining all RMA functions and processes • Improving the coherence and effectiveness of national direction • Enabling faster and more responsive land use planning • Improving the quality of plans • Reducing the complexity of consenting processes • Ensuring processes enable sufficient certainty for major infrastructure • Improving the use of funding tools and economic instruments • Ensuring appropriate mechanisms for Māori participation in the system, including giving effect to Treaty settlement agreements • Clarifying the meaning of iwi authority and hapū • Ensuring CME functions are effective
Institutions	<ul style="list-style-type: none"> • Allocating roles in the system to central and local government, the Environment Court, and other institutions such as Independent Hearings Panels • Considering the interaction of the Climate Change Commission and other institutions in responding to climate change • Ensuring institutions have the right incentives (including clearly defined roles, responsibilities, and accountability mechanisms) • Introducing a package of complementary measures to support the transition to a new system and to address planning system culture, capacity and capability

³ These issues come from the Cabinet paper and the draft Terms of Reference.