



New Zealand
Planning Institute[®]
Te Kokiringa Taumata

Submission

RMA Review Panel Issues and Options Paper

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David Curtis

CEO

New Zealand Planning Institute

P: +64 9 520 6277 ext 3 | M: +64 21 625 244 |

David.Curtis@planning.org.nz

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Executive Summary

The New Zealand Planning Institute (NZPI) welcomes the opportunity to make this submission for consideration by the Resource Management Review Panel (RMRP), noting the review's dual focus includes improving natural environment outcomes, and urban and development outcomes. The NZPI requires significant change to NZ's resource management system. Our submissions are in principle, to the legislation, and to practice, and are summarised here:

In Principle

1. Fundamentally the Act is not broken but it needs reworking to make it fit for purpose to deliver for our future and for generations that are yet to come;
2. Integrated and cohesive national direction including bottom lines is a critical component;
3. Purpose of Act needs to be reviewed to explicitly include Te Ao Māori and provide for partnership;
4. Aspirational and forward-looking planning approach is needed to complement effects-based planning

Legislation

5. Bring Treaty section 8 into section 5;
6. Mandatory national direction delivered within a National Policy Framework to ensure cohesion without the risk of conflicting outcomes to implement matters of importance – which shall include climate change and urban development - via:
 - a. Mandatory National Policy Statements (NPS) supported with guidance practice documents and tools produced within 12 months of any new NPS,
 - b. Mandatory National Environmental Standards (NES), including bottom-lines, on key natural resources to provide a nationally consistent approach to their management,
 - c. Mandatory requirement to review NPS and NES every 3 years
7. All national direction subject to direction and independent review by Parliamentary Commissioner for Environment (or equivalent Planning Commission) to ensure:
 - a. National Policy Framework is consistent with the purpose of the Act,
 - b. NPS and NES address and resolve conflicting outcomes and enable regional and district implementation,
 - c. Collaboration of stakeholder government ministries and departments
8. All Regional Policy Statements required to be consistent with the National Policy Framework and to provide a regional spatial plan which:
 - a. contains direction for resource management and the delivery of objectives,
 - b. maps key development and infrastructure projects,
 - c. coordinates objectives and activities of partners and key stakeholders including iwi, Government and Local Government agencies
 - d. integrates funding for central and local government agencies
9. Simplify Regional and District regulatory plans and plan making:
 - a. through national guidance model plans,
 - b. by removal of appeal rights to plan changes required by national guidance so that regulatory instruments can be adapted more quickly,

- c. by reviewing public input and decision-making processes
- 10. Simplify consent application processes by:
 - a. getting the plan right and expanding permitted activity and outcome categories,
 - b. setting triggers to reduce information and EIA requirements for activities and outcomes anticipated by the plan,
 - c. reviewing adverse effects assessment requirements for discretionary activities
- 11. Simplify consent processing by:
 - a. cutting down consenting assessment requirements by developing plans that are aimed at permitting anticipated outcomes,
 - b. review the directions and functions of Schedule I and IV of the Act
 - c. review public notification processes to enable appropriate participation in a cost-effective manner

Practice

- 12. Strengthen compliance, monitoring and enforcement practices by a mixture of national direction enabling more effective sanctions (punitive fines) and requiring reporting of outcomes.
- 13. Improve the quality, practice and consistency of decision-making (policy development, plan making, and consent processing) by requiring accreditation for practitioners.
- 14. All “proposed RMA amendments” to be evaluated so they go to Cabinet supported by an assessment and report undertaken through:
 - a. Independent RM practitioner panel, funded via MfE,
 - b. LGNZ assessment of consequences, costs and benefits, funded via MfE,
 - c. Independent legal and economic review, via PCE or Planning Commission

These are the main changes required by NZPI. We see these as a coherent and consistent reform package. These and other changes are discussed in detail in the body of this submission.

Activities informing this submission include the body of research work contributing to related NZPI policy analysis (including National Direction proposals, Resource Management Amendments, National Policy Statements); desktop research on international best practice in planning law; nationwide survey of member opinion on the RMRP Issues and Options Paper conducted in December 2019; facilitated workshops with NZPI practitioner members in Auckland, Wellington, Christchurch, Queenstown and Dunedin branches conducted in January 2020.

The panel’s attention is drawn to a key finding from the NZPI planning practitioner survey – that over 80% of respondents strongly agreed or agreed with the proposition: “Proposed changes to planning systems should be tested with practitioners to expose implementation and operational issues before being made into legislation.”

We welcome further engagement with the panel. In particular NZPI would like to assist the panel with the detailed practical considerations required to implement the “simplification” changes summarised above in submission points 9 to 11. We suggest a technical advisory group of expert practitioners to review Schedules I and IV and prepare appropriate practice change advice and recommendations.

1. Introduction

The New Zealand Planning Institute (NZPI) welcomes the opportunity to make this submission for consideration by the Resource Management Review Panel (RMRP) on its Issues and Options paper entitled “Transforming the resource management system – Opportunities for change” which was published in November 2019. NZPI notes the review’s dual focus includes improving outcomes for the natural environment and improving urban and other development outcomes.

Established in 1949, the New Zealand Planning Institute is the home of planning in New Zealand, with 11 branches within New Zealand and overseas. Our growing membership of over 2000 members – mainly professional practitioners - are involved in strategic planning initiatives, implementation of urban and rural plans, plan-making, policy-analysis, at local, regional and national levels. The NZPI is a complex organisation that delivers training, networking, advocacy, real time planning news, mentoring, professional standards monitoring, accreditation of tertiary planning education and good practice guidance through the Quality Planning resource.

Activities informing this submission include the body of research work that has contributed to related NZPI policy analysis (this includes submissions on recent National Direction proposals, Resource Management Amendment Bills, relevant Productivity Commission investigations, Urban Development Authority initiatives); desktop research on international best practice in planning law including in relation to climate change; an in depth nationwide survey of member opinion on RMA issues and reform options and which included the RMRP Issues and Options Paper conducted in December 2019; and facilitated workshops with NZPI practitioner members in Auckland, Wellington, Christchurch, Queenstown and Dunedin branches conducted in January 2020.

This submission begins with a brief account of how we got to where we are now – on the basis that taking learnings from reviewing our actions, including what failed and worked improves the opportunity to adapt to or future challenges. The main body of the submission provides evidence and explanation justifying the package of reforms that NZPI considers to be essential to enable good and effective planning to occur in New Zealand.

2. Background

An enormous amount of academic endeavour has gone into analysing the Resource Management Act (RMA) and its origins, and it’s not the purpose of this submission to review such work in detail. However NZPI submits an understanding of the origins of the RMA is helpful.

The Town and Country Planning Act 1977 (TCPA) was the predecessor to the RMA. The TCPA allowed planners to direct the spatial pattern of rural and urban land uses through prescriptive zoning schemes. Under that legislation the purpose of planning included the wise use and management of resources and the direction and control of development. The TCPA was a directive piece of legislation, which was consistent with the centralised planning philosophy that dominated the political climate of the time.

In 1987 a review of the TCPA was undertaken to determine whether any changes were needed to bring resource management practice into harmony with other economic reforms in progress at the time. Criticisms of the TCPA emerged from this review: it was found to be too prescriptive as it usurped the role of the market, and it was seen as too restrictive as it constrained worthwhile developments and imposed unnecessarily high administrative costs.

The main purpose of the TCPA was to control the actual activities that took place in relation to land and other resources. The RMA shifted the focus from control of the activities to control of the effects of activities. This was a substantial change in philosophy regarding resource management law.

To begin with, the courts generally accepted that the focus of the legislation was on controlling or managing the effects of use, not on the actual use or outcome itself. They also noted that plans can no longer be proactive in promoting particular outcomes. For the first couple of decades or so Councils function in relation to district plans primarily focussed on the management and control of effects, not the prescriptive allocation of resources for land use. The change was summed up by academic commentators as a “shift towards management of resources rather than planning for their strategic use.”

Despite strenuous efforts of Ministry of Environment officials, many District Plans proposed under the new RMA were simply rebadged versions of old TCPA planning ordinance, though some local councils went to great effort to produce plans focussed on effects rather than activities. The legacy is a hugely diverse range of District Plans dealing with similar issues.

Since enactment there has been a storm of local, regional and national interventions aimed at delivering outcomes. These range from Treaty Settlements, Urban Design Guidelines, Medium and High Density Development Guidelines, Growth Strategies, Urban Development Strategies, Smart Growth Strategies at local and regional levels – all of which sit outside the RMA, to the recent proliferation of National Policy Statements over the last few months – which were anticipated when the RMA was enacted almost 30 years ago, all of which have been efforts to plug a gap in planning. Too little too late some might say, and in the meantime the issue of Climate Change has taken centre stage.

While recognising that many serious challenges have emerged with NZ’s system of resource management, NZPI notes that parts of the system are functioning well – such as the management of point sources of pollution to air and water – and that New Zealand continues to rate very highly in international liveability rankings which in part is a reflection of the performance of our resource management systems. It is important that change should not throw the baby out with the bathwater. It is equally important that unintended consequences be avoided when making change to what has become a complex network of statutes, tools, government agencies and stakeholders (see Appendix 1).

3. Main Submissions

The RMA is framework legislation. It contains provisions relating to key institutions (Ministers, Central Government, Regional Councils, District Councils, the Environmental Protection Agency, the Environment Court) and separate schedules providing for policy development, plan preparation and consent processing. As such NZPI submits the Act is amenable to a significant level of reform and change. Fundamental to NZPI’s approach is that planning for outcomes needs be put back into New Zealand’s primary land and natural resource planning instrument. This could be reflected in a new name. There will be many contenders for that title, but we suggest: Environmental Protection and Development Planning Act.

On the 13th of November 2019, the Minister for the Environment described the RMA’s performance thus: “It costs too much, it takes too long and it has not protected the environment”. NZPI’s submissions aim to improve that performance.

3.1 The RMA needs to be made fit for purpose

Clause 2 of the RMRP Issues and Options paper notes: “The Resource Management Act 1991 (RMA) revolutionised land use planning and environmental management in New Zealand. It was a product of rising environmental awareness in New Zealand and abroad, and recognised the need to integrate an array of separate legislation addressing land use, water, air and soil, among other things. It forged a new legislative response to Te Tiriti o Waitangi/the Treaty of Waitangi (the Treaty). It was also part of a move towards wider deregulation of the New Zealand economy, and adopted an ‘effects-based’ approach that sought to narrow the role of planning in the interest of economic efficiency.” NZPI generally concurs with this description.

While the new Act integrated and incorporated many disparate processes and statutes, it, and related processes and interests have created an increasingly complex environment, with new pieces of inter-related legislation (quite apart from amendments to the RMA itself), new tools and processes, and additional stakeholders and institutions. Appendix 1 illustrates this complexity, draws attention to the broader fabric of NZ’s resource management system, and suggests that any proposed changes need to recognise that complexity.

NZPI recognises that while serious problems and failures have emerged with NZ’s resource management system – as described in the RMRP paper – NZPI notes that parts of the system are functioning well – such as the management of point sources of pollution to water and air – and that NZ continues to rate very highly in international liveability rankings which in part is a reflection of the performance of our resource management systems. It’s not all bad, but parts do require reworking.

NZPI notes that the focus on effects has tended to drive the resource management system to be reactive, rather than proactive, despite its purpose’s reference to “the reasonably foreseeable needs of future generations”. There are many examples of this. Whenever the country has been faced with large scale, urgent or difficult issues, and when city regions have experienced high urban growth, some sort of central Government intervention has been required to achieve a timely response. Recent examples include: dairy farm irrigation; Christchurch earthquakes; Auckland Unitary Plan; and rapid urban development. Future examples include: freshwater management; biodiversity; climate change and urban regeneration. These interventions – which have generally been ad hoc - almost always ignore standard RMA statutory documents and some seek to circumvent them. Yet these issues are the new normal. Our planning frameworks and systems should be designed to cope with and provide for them.

NZPI submits that fundamentally the Act is not broken but it needs reworking to make it fit for purpose to deliver for our future and for generations that are yet to come.

3.2 Integrated and cohesive national direction including bottom lines

The current plethora of separate NPS’s will in practice not provide an integrated national direction and will create difficulties for practitioners making sense of them at local and regional level whose job it is to figure out how to reconcile conflicting priorities. NES’s that set out measurable bottom lines are essential in enabling regional and local decision-making where natural resources are subject to cumulative damage, decay and loss. But national direction should not be focussed on a single issue – such as affordable housing. National direction for highly productive land, needs to work in practice with

national direction for urban development, and with national direction for biodiversity, and with national direction for freshwater management. National direction policies should not be developed in silos. They need to work with each other in an integrated way and provide guidance on conflict resolution. Countries like the UK and Scotland have integrated planning management systems we can learn from. Clear and consistent national direction will provide the strong resource management 'backbone' the RMA needs, providing the support and direction essential at regional and local levels.

NZPI submits integrated and cohesive national direction including bottom lines is a critical component.

3.3 Include Te Ao Māori and provide for partnership in Purpose of Act

Maori thinking should be a guiding principle (if not the guiding principle) towards sustainable management, particularly in respect of integrated management and generational outcomes. Te Ao Māori (the Maori world view) is a holistic view that connects people intimately with the environment and everything in it. Maori perspectives consider the wellbeing of the people is reflected in and linked to the wellbeing of the environment, and when the environment suffers the people suffer. A body of knowledge has been built over millennia by Maori and has been used to manage resources in the natural environment. NZPI considers this can only add a positive aspect to resource management. Additionally the Maori economy is linked to natural resources so there is an economic benefit in good management of natural resources for Maori and for New Zealand. Mātauranga Maori has much to offer resource management in general. NZPI considers it should be given the same weight as European/western science and thinking to be consistent with the principles of the Treaty of Waitangi. When mātauranga Maori is incorporated into planning and policy, the outcomes will be more equitable and appropriate for all New Zealanders.

NZPI notes the changing and developing role of Maori in resource management which have been primarily driven through processes outside the RMA, such as Treaty Settlements. Changes that expand the role as we advocate will require further Government support and capacity building to ensure that all iwi and hapu can participate fully.

NZPI submits the purpose of the Act needs to be reviewed to explicitly include Te Ao Māori and provide for partnership.

3.4 Aspirational and forward-looking approach needed to complement effects-based planning

Recent reforms to the Scottish planning system are an exemplar.

Scottish Government documents state:

"A high quality planning system is essential to create quality places with the homes, infrastructure and investment that people need. We are improving Scotland's planning system, to strengthen the contribution planning can make to inclusive growth, to delivering housing and infrastructure and to empowering communities. We believe that the system needs to change to respond to a changing world. That includes the part planning must play in addressing climate

change and ensuring we sustain and support communities across Scotland....The planning system plays a key role in delivering high-quality places for Scotland. It balances competing demands to make sure that land is used and developed in the public's long-term interest.”

The Ministerial forward to Scotland’s National Planning Framework (which sets out a long-term vision for development and investment across Scotland over the next 20 to 30 years), describes the kind of overarching framework that NZPI believes New Zealand’s resource management system needs as part of national guidance to complement the current effects based regime. Scotland’s ministerial forward states:

“The central purpose of the Scottish Government is to make Scotland a more successful country, with opportunities for all to flourish through increasing sustainable economic growth.

This, Scotland's Third National Planning Framework - NPF3 - is the spatial expression of the Government Economic Strategy, and of our plans for infrastructure investment. It is about our ambition to create great places that support sustainable economic growth across the country.

NPF3 is a strategy for all of Scotland - championing our most successful places and supporting change in areas where, in the past, there has been a legacy of decline. It builds on the success of our city regions and will help to transform our towns. It highlights opportunities for rural development that will strengthen our communities. And it sets out an ambitious agenda to secure investment in the unique assets of our coast and our islands.

NPF3 brings together our plans and strategies in economic development, regeneration, energy, environment, climate change, transport and digital infrastructure to provide a coherent vision of how Scotland should evolve over the next 20 to 30 years. In turn, this vision will help to inform our future policies and prioritise investment decisions.”

NZPI submits that an aspirational and forward-looking planning approach is needed to complement effects-based planning.

3.5 Bring Treaty section 8 into section 5

Maori values need to be embedded in the RMA, not just in section 8 and consultation documents. New Zealand’s resource management system and environmental legislation has not responded well to Treaty Settlements. All treaty settlements should be reflected in resource management decision-making, and practitioners should be accustomed to details and obligations of relevant treaty settlements. Take the South Island for example. The majority of the South Island is subject to the agreement between the Crown and Ngai Tahu. It is inappropriate that the RM system does not reflect this at the most fundamental level. Just as Ngai Tahu specific outcomes and protocols should be embedded in RM legislation to require efficiency and consistency across all agencies which implement the legislation and deal with Ngai Tahu – the same approach should apply to other Treaty Settlements and other Iwi. Thus a purpose of the Act must be to give effect to Treaty Settlements, and position negotiated partnerships and Te Ao Māori appropriately in decision-making.

NZPI submits that Treaty section 8 should be brought into section 5

3.6 Mandatory national direction delivered in National Policy Framework (NPF)

Current national direction practice is illustrated in proposed NPS's for Urban Development Capacity, Highly Productive Lands, Indigenous Biodiversity and Freshwater Management. Respective policies and priorities originated out of different Ministries: MBIE (Ministry for Business, Innovation and Employment), MPI (Ministry for Primary Industries) and MfE (Ministry for Environment), while MHUD (Ministry of Housing and Urban Development) has its own seemingly separate planning agenda.

This series of random and apparently ad-hoc NPS's driven out of political imperatives (housing affordability, deteriorating freshwater quality, species extinction, urbanisation of elite soils) cannot deliver the efficient and effective national direction urgently needed to address the significant planning and resource management issues that face the country. The recent set of NPS's fight against each other and will ultimately fail to deliver positive and certain outcomes. What is needed is a coordinated, consistent and integrated approach. The strategic priorities for resource management need to be not only expressed in the Purpose and Principles of the relevant statute, good central government direction essential to resolve inevitable conflicts and competing demands at national level.

While it is important to be able to take a local approach to issues, there must be minimum standards and bottom lines set nationally to ensure positive outcomes.

Regional and District Council plans prepared under the RMA are required to state all regional or district objectives, then the policies, followed by any methods or rules used to implement the policies. Among the matters that must be considered in plan development is consistency with regional policy statements and other statutory documents. In contrast, as currently provided for in the RMA, National Policy Statements are required to state only the objectives and policies of that particular NPS, and there is no requirement to consider consistency or conflict with other NPS's, nor is there any requirement to provide guidance on implementation. NZPI notes and acknowledges that high quality guidance has sometimes been produced (eg guidance from MBIE in the case of the NPS on Urban Development Capacity). However the production of guidance is erratic and often much later than needed by practitioners and all too often in response to the emergence of the unintended consequences that arise due to the experimental and untested nature of recent national guidance.

NZPI draws the panel's attention to the approach adopted in the UK and Scotland where some sort of over-arching National Planning Policy Framework exists, which provides strategic direction across the range of environmental and development issues in an integrated way, and which sets out objectives, policies, priorities and other methods needed to resolve conflicting and competing demands. NZPI submits the national guidance and national policy statement sections of the RMA need to be changed accordingly.

NZPI submits that mandatory national direction must be delivered within a National Policy Framework to ensure cohesion without the risk of conflicting outcomes to implement matters of importance – which shall include climate change and urban development - via:

- a. Mandatory National Policy Statements (NPS) supported with guidance practice documents and tools produced within 12 months of any new NPS,**

- b. Mandatory National Environmental Standards (NES), including bottom-lines, on key natural resources to provide a nationally consistent approach to their management,**
- c. Mandatory requirement to review NPS and NES every 3 years**

3.7 National direction subject to direction and independent review

Government ministries may be aware of the implementation problems risked at regional and district levels when proposing national guidance with a particular focus, but there is no check and balance system in place that can be relied upon for due consideration of those risks, so that new national guidance requirements are integrated with and work alongside existing national guidance.

NZPI recognises the concentration of policy expertise amongst the MfE staff whose job it is to prepare NPS proposals, but has frequently expressed concern about the absence of practitioner experience in the NPS development process and the preparation of legislation reform. NZPI notes there have been regular attempts by Ministers of the Environment to legitimise an ability to intervene and to increase their powers to regulate and to direct territorial authorities to rewrite sections of their statutory planning documents for example. There have been many submissions to the effect that the Minister should not have unfettered powers to intervene – that there should be appropriate checks and balances in place.

NZPI submits there is little point in requiring an over-arching National Policy Framework which provides for integrated and coordinated NPSs and NESs, if such a framework can be changed every three years to suit the political agenda of an incoming government. NZPI submits that proposals to change resource management national direction need to be subject to independent checks.

In making this submission, NZPI reminds the panel its submissions for the NPS on Highly Productive Lands went to the Ministry for Primary Industries, while those for Freshwater Management went to MfE, and those for NPS Urban Development Capacity went direct to MBIE. NZPI understands that there were joint working arrangements between ministerial policy advisers, but these failed to produce integrated national guidance. In part that is because those policy advisers have no power to require their ministers to collaborate, resolve conflicts and produce an integrated package. NZPI submits that robust examination and independent challenge will be essential to ensure that the overall purpose of the Act is met by the whole package of national guidance, and that individual components of national guidance are capable of being put into practice. In our experience the office of the Parliamentary Commissioner for the Environment has that capability.

NZPI submits that all national direction be subject to direction and independent review by Parliamentary Commissioner for Environment (or equivalent Planning Commission) to ensure:

- a. National Policy Framework is consistent with the purpose of the Act,**
- b. NPS and NES address and resolve conflicting outcomes and enable regional and district implementation,**
- c. Collaboration of stakeholder government ministries and departments**

3.8 All Regional Policy Statements to be consistent with National Planning Framework

A function of national direction is to require the incorporation of nationally determined resource management policies into regional and local statutory planning instruments. Currently regional policy statements, regional plans and district plans must be prepared in accordance with National Policy Statements in order to give national direction local and regional effect.

NZPI submits that duty or relationship needs to be expanded and modified to provide for the more comprehensive and integrated direction required by the National Planning Framework (which deals with matters of importance including climate change and urban development), and to include elements that are needed for development (infrastructure for example), and any other resource management matter.

NZPI notes the national guidance relating to Future Development Strategies that was prepared by MBIE as part of the guidance needed to implement the NPS UDC. That guidance required the preparation of a Future Development Strategy (FDS) by specific local authorities, and suggests that other local authorities are encouraged to prepare one. The focus of each FDS is explicitly “sufficient feasible housing and business land development capacity in the short, medium and long term”.

NZPI notes the comprehensive content that the national guidance suggests should be found in each FDS:

“...a future development strategy should contain:

- explicit reference to policy PA1 that requires local authorities to ensure that at any one time there is sufficient feasible housing and business land development capacity in the short, medium and long term
- the minimum targets for sufficient, feasible development capacity for housing that will be, or have been, included in regional policy statements and relevant territorial authority plans
- explicit reference to the housing and business development capacity assessment to demonstrate how any identified development capacity is sufficient and feasible
- evidence of analysis undertaken to determine where and when there are opportunities for future development, informed by necessary assessment, scenario testing, constraints analysis, consultation, and existing strategies
- a map and/or series of maps and tables outlining the location, timing, and sequencing of development capacity (including any “no-go” areas where relevant)
- identification of the development infrastructure and other infrastructure required to support future development capacity
- implementation actions, that outline how the future development strategy will be given effect through RMA, LGA and LTMA planning documents and how infrastructure will be funded along with other non-statutory documents and processes
- clear approach about how the future development strategy will be responsive to changes in demand for future urban development or where land-owners’ intentions change
- clear approach for monitoring both the urban development outcomes and the implementation of the future development strategy
- a short summary of how consultation on the future development strategy was undertaken.”

NZPI submits that this list forms a model starting point for a regional spatial plan description that would form part of the regional policy statement, and be required and consistent for the region with the National Policy Framework.

NZPI submits all Regional Policy Statements be required to be consistent with the National Policy Framework and to provide a regional spatial plan which:

- a. contains direction for resource management and the delivery of objectives,**
- b. maps key development and infrastructure projects,**
- c. coordinates objectives and activities of key stakeholders including Government and Local Government agencies**
- d. integrates funding for central and local government agencies**

3.9 Simplify Regional and District plans and plan making

Despite more than 90% of all resource consent applications being non-notified and processed within statutory timeframes, and despite more than 50% of new homes not requiring resource consent (because they are permitted uses and don't infringe), years of tinkering and stream-lining have added layer upon layer of complexity and process to what is arguably the engine-room of NZ's resource management system: Schedules I and IV.

NZPI notes that good regulatory planning processes begin and end with a good plan. NZ's district planning, in the absence of national direction, began with around 80 entirely different district plans. There have been major changes – including Auckland's Unitary Plan and the Christchurch plan review.

A core issue is lots of councils having to reinvent the same wheel when they review their district plans which adds considerable expense for both the councils and for organisations seeking nationally consistent provisions. This can be addressed by greater content across common themes/ zones/ topics in the National Planning Standards or Model Plans. It can also be addressed by requiring more efficient sharing of resources/ unitary plans that cross territorial boundaries.

With hindsight NZPI considers that the recent National Planning Standard process was a missed opportunity to develop a model district plan, and model regional plan provisions. Important and distinctive local matters – such as the heritage urban landscapes in Oamaru, Napier and Devonport – can be managed with character overlays.

NZPI seeks no appeal rights for plan changes which are giving effect to national direction.

NZPI supports a formal review of public participation, appeal rights and decision-making related to plan-making, consent application, and consent processing, in order to achieve a better balance between environmental outcomes, public participation and the quality of decision-making.

NZPI submits that Regional and District regulatory plans and plan making should be simplified:

- a. through national guidance model plans,**
- b. by removal of appeal rights to plan changes required by national guidance so that regulatory instruments can be adapted more quickly,**
- c. by reviewing public input and decision-making processes**

3.10 Simplify consent application processes

As mentioned above, the simplification of resource consent application processes starts with the development a good plan.

Among the many changes and complexities that have been introduced into district plans by the layering of reforms is a proliferation of activity types (controlled, limited discretionary, discretionary, non-complying), and increasingly onerous information and EIA requirements for quite simple activities that - despite being envisaged by the plan/zone – because a rule or threshold is exceeded – trigger assessment requirements across a whole range of matters. There is also costly complexity in the consideration needed for notification and limited notification. NZPI is aware of the relative simplicity of the British town planning system where neighbours are consulted, and the merits of their comments and suggestions considered by assessing planners. The emphasis there is on a successful outcome – rather than the assessment of effects to the last degree.

NZPI also considers it worth exploring independent appointment of hearing commissioners, potentially as regionally-based panels administered by either Env't Ct or the EPA. This would avoid the widespread perceptions that Councils stack their panels to get the decision they want, plus where commissioners are paid by the council and therefore create a perception that they are not wholly independent, particularly if the council is in effect their only client/source of income.

NZPI submits consent application processes should be simplified by:

- a. getting the plan right and expanding permitted activity and outcome categories,**
- b. setting triggers to reduce information and EIA requirements for activities and outcomes anticipated by the plan,**
- c. reviewing adverse effects assessment requirements for discretionary activities**
- d. exploring independent appointment of commissioners**

3.11 Simplify consent processing

NZPI notes the thrust of the changes for by consideration the panel include a rebalancing shift in resource management toward the delivery of outcomes away from pure effects-based assessments. One of the challenges that must be faced is the legacy of effects-based assessment when it comes to the regulation of urban development. NZPI considers that making such a change in our resource management systems approach will require a careful analysis, deconstruction and reassembly of Schedules I and IV. This needs to retain what is good and effective, and a recognition of what is generally unnecessary. Efficient and effective planning starts with the plan.

NZPI submits that consent processing should be simplified by:

- a. cutting down consenting assessment requirements by developing plans that are aimed at permitting anticipated outcomes,**
- b. review the directions and functions of Schedule I and IV of the Act**
- c. review public notification processes to enable appropriate participation in a cost-effective manner**

3.12 Strengthen compliance, monitoring and enforcement practices

Feedback from practitioners is unequivocal on this. Considerably more investment is needed across the board in environmental compliance, monitoring and enforcement. Members feel that environmental crime is rife in NZ which is leading to further degradation of the natural and built environments and associated. Authorities are criticised for not adequately resourcing these functions as they are seen as not being "cost-effective". Many argue that squeaky-wheel/neighbors-at-war scenarios attract most attention.

A strong theme in member feedback is that better practice ensues from restricting the number of conditions of consent to the few important ones, and then monitoring those consistently. Where the consent holder self-monitors, but subject to independent assessment, then the monitoring fees are reduced accordingly. There is strong support for centralised reporting of compliance and monitoring on the basis that what is measured is what is important (ie not just numbers of consents processed in statutory timeframes).

We provide this commentary on enforcement from an expert member:

“Penalties for environmental crime being handed down by the Judiciary are also not adequate to deter offenders despite the increase in penalties in 2011. Restorative Justice may be used in some cases to better effect but can only be gone down with the agreement of all parties. A Judge should be able to direct that such an approach be taken on application of the Authority.

While an appeal process for abatement notices under sec 322 RMA may be appropriate, provision of what is effectively a second Environment Court appeal process when a respondent is not satisfied with a Council decision not to change or cancel an abatement notice effectively gives a Respondent another "bite at the cherry". It undermines the integrity and effectiveness of the Enforcement Agency.

The RMA infringement system for minor offences is woefully inadequate and may be seen as a licence for further offending. The fee levels were set 23 years ago and need to better reflect the harm caused. Authorities should be able to use their discretion within a set range of infringement penalties from \$500 up to at least \$5,000 for more serious or subsequent minor offending.

Costs of investigation into substantiated offences and actions taken should be able to be fully recovered by the authority concerned.”

NZPI submits in support of strengthened compliance, monitoring and enforcement practices by a mixture of national direction enabling more effective sanctions (punitive fines) and requiring reporting of outcomes.

3.13 Improve decision-making by requiring accreditation for practitioners

There is considerable anecdotal evidence that unqualified practitioners are the cause of multiple problems with the consenting process, which often start with the poor quality of applications lodged

with Council. Accreditation can be a means of recognising and encouraging applications prepared by planners vs those prepared by builders and surveyors.

The Royal Town Planning Institute has such a system, and some Australian States are also introducing one, where it is contributing to an improvement in the quality of planning, and in the public's confidence in the planning system.

Many planners experienced in overseas jurisdictions consider New Zealand has long needed planner accreditation. Many argue that it would force employers to provide the time and resource for focusing on legislation. The status of being MNZPI is not recognised by some practitioners, managers or the judiciary in some cases. Some sort of formal recognition would give greater incentive for planners to conduct the required training and go through an enhanced membership process – which can test more rigorously for competencies as well as practical experience.

Accreditation assists government control for desired outcomes by ensuring accredited planners are educated in these desired outcomes and why, and how to balance these outcomes against potential effects of these outcomes.

NZPI submits in support of accreditation for practitioners to improve the quality, practice and consistency of decision-making (policy development, plan making, and consent processing).

3.14 RMA amendments evaluated prior to Cabinet consideration

In recent years NZPI has been required to make submissions on RMA amendments and national proposals which should never have seen the light of day. Many of these drafts have relied upon remote and inexperienced lawyers and policy makers in Wellington making changes without adequate consultation and largely for political expediency. The professional people at the coal face who know the operational challenges and best fixes / outcomes should be included in the process early and should be listened to. Testing proposed planning system changes among practitioners has worked at lower levels of Government in New Zealand, NZPI supports following this practice when new legislation is a likely outcome.

Government routinely establishes technical advisory groups in other areas of government, NZPI considers that given the importance and complexity of resource management planning and regulation, such practices such be adopted by MfE.

NZPI submits that all “proposed RMA amendments” and NPS proposals be evaluated so they go to Cabinet supported by an assessment and report undertaken through:

- a. Independent RM practitioner panel, funded via MfE,**
- b. LGNZ assessment of consequences, costs and benefits, funded via MfE,**
- c. Independent legal and economic review, via PCE or Planning Commission**

These are the main changes required by NZPI. We see these as a coherent and consistent reform package. These and other changes are discussed in detail in the body of this submission.

4. Concluding Information

Activities informing this submission include the body of research work contributing to related NZPI policy analysis (including National Direction proposals, Resource Management Amendments, National Policy Statements); desktop research on international best practice in planning law; nationwide survey of member opinion on the RMRP Issues and Options Paper conducted in December 2019; facilitated workshops with NZPI practitioner members in Auckland, Wellington, Christchurch, Queenstown and Dunedin branches conducted in January 2020.

The panel's attention is drawn to a key finding from the NZPI planning practitioner survey – that over 80% of respondents strongly agreed or agreed with the proposition: "Proposed changes to planning systems should be tested with practitioners to expose implementation and operational issues before being made into legislation."

We welcome further engagement with the panel. In particular NZPI would like to assist the panel with the detailed practical considerations required to implement the "simplification" changes summarised above in submission points 9 to 11. We suggest a technical advisory group of expert practitioners to review Schedules I and IV and prepare appropriate practice change advice and recommendations.

Appendix 1 Current Resource Management System – Environment of Complexity

The purpose of this appendix is to provide a brief description of the institutional context of the planning framework that now exists in New Zealand.

Clause 2 of the RMRP Issues and Options paper notes: “The Resource Management Act 1991 (RMA) revolutionised land use planning and environmental management in New Zealand. It was a product of rising environmental awareness in New Zealand and abroad, and recognised the need to integrate an array of separate legislation addressing land use, water, air and soil, among other things. It forged a new legislative response to Te Tiriti o Waitangi/the Treaty of Waitangi (the Treaty). It was also part of a move towards wider deregulation of the New Zealand economy, and adopted an ‘effects-based’ approach that sought to narrow the role of planning in the interest of economic efficiency.”

Characteristics and Institutions of the RMA planning system

- Innovative legislation
- Sustainable management
- Enable environmental health, social, economic & cultural wellbeing
- Integrate management
- Effects based
- Recognised Treaty obligations – values and participation
- Market focused – but with intervention
- Public participation
- Devolution
- New institutions
 - Parliamentary Commissioner for the Environment
 - Ministry for the Environment
 - Department of Conservation
 - Environment Court
 - Reorganisation of Councils

While the new Act integrated and incorporated many disparate processes and statutes, it, and related processes and interests have created an increasingly complex environment, with new pieces of inter-related legislation (quite apart from amendments to the RMA itself), new tools and processes, and additional stakeholders and institutions.

Statutes, Govt Institutions, Tools and Stakeholders

Environment of complexity requires attention to detail and knowledge of interconnecting and interacting frameworks.

Statutes

- RMA 1991
- Environment Reporting Act 2015
- Biosecurity Act 1993
- Local Government Act 2002
- Local Government (Auckland Council) Act 2009

- Heritage Zeland Pouhere Taonga Act 2014
- Environment Protection Authority Act 2011
- Kainga Ora-Homes and Communities Act 2019
- NZ Infrastructure Commission/Te Waihanga Act 2019
- EEZ Act 2002
- Waste Minimisation Act 2008
- Marine Reserves Act 1971
- Reserves Act 1977
- Conservation Act 1987
- Queen Elizabeth II National Trust Act 1977
- Electricity Act 1992
- Gas Act 1992
- Land Transport Management Act 2003
- Building Act 1991
- Infrastructure (Amendments Relating to Utilities Access) Act 2010
- Energy Efficiency & Conservation Act 2000
- Housing Accords and Special Housing Areas Act 2013
- Climate Change Response (Zero Carbon) Amendment Act 2019
- Ozone Layer Protection Act 1996
- Marine Mammals Protection Act 1978
- Wildlife Act 1953
- Native Plants Protection Act 1934
- Continental Shelf Act 1964
- Crown Pastoral Land Act 1998
- Civil Defence Emergency Management Act 2002
- International Agreements – eg Paris Agreement

Government and Other Governing Entities

MfE; MBIE; MHUD; MPI; MoT; EPA; Kainga Ora; Treasury; DoC; Statistics NZ; Heritage NZ; DIA; QEII Trust; Regional Councils; Local Councils; National Emergency Management Agency; Justice system including Environment Court; Treaty of Waitangi Tribunal; NZ Police; Environment Commissioner; Independent Climate Change Commission; EQC; Crown Infrastructure Partners; Infrastructure Commission; NZ Utilities Advisory Group Inc; NZTA; Transpower; KiwiRail; LINZ; Water Services Regulator; NZ Lifelines Council

Stakeholders

New Zealanders; Man whenua iwi/hapu; NZPI; Law Society/NZILA; RMLA; NIWA; GNS Science; ENZ; TCF; EDS; Forest & Bird; Rural Sector; Fish & Game; Sustainable Business NZ; Infrastructure NZ; Water Sector; Forestry Sector; Ports; Airports; Gas Sector; Oil Industry; Water NZ; subject experts....

Tools

Treaty Settlements; Regulations; NPS; NES; Planning Standards; RPS; Coastal Plans; Regional/Unitary/District Plans; Bylaws; Budget (Wellbeing context); Data and Monitoring eg

Environment Aotearoa 2019; Enforcement tools eg fines; Spatial Plans; Local Plans eg Long Term and Annual or Infrastructure plans; Consents; Water take permits; Licenses eg exploration; Concessions on conservation land; NZ Heritage List; National Civil Defence Emergency Management Plan; National Disaster Resilience Strategy; Archaeological Authority; Heritage covenants; National Guidelines – eg Australian and NZ Guidelines for Fresh and Marine Water Quality; Local Guidelines eg Urban Design or Subdivision; Awards; Research Grants

Challenges and opportunities

Needless to say, time hasn't stood still in New Zealand, and the list of challenges and opportunities that need to be planned for and accommodated now is large and includes:

- Climate change
- Biodiversity & environmental decline
- Expanding Urban areas – struggling infrastructure capacity & funding, increasing traffic congestion, environmental pollution, lack of transport choice and flattening productivity growth
- Significant decrease in Housing affordability
- Rural production recognised as affecting the mauri of the water, human health & water but critical to New Zealand's current and future prosperity
- Treaty settlements been more successful in providing for Māori to become partners in decision-making about resources
- RMA lack of clarity about how it should be applied. Insufficient provision of national direction and implementation challenges in local government, clear environmental limits were not set in plans
- Too narrow a focus on managing the negative effects of resource use, rather than providing direction on desired environmental and development outcomes or goals
- Lack of effective integration across the RM system
- Inefficiencies, delays and additional costs. Furthermore, multiple plans and processes can make it difficult for the public and iwi/Māori to participate effectively
- Complexity, slow to change & multiple avenues to relitigate decisions
- New legislative amendments to address deficiencies have resulted in further misalignment between legislation.
- Suite of national direction is not yet cohesive & a lacking strategic programme
- Weak compliance, monitoring and enforcement, fragmented systems, insufficient monitoring and collection of data and information on the state of the environment
- Capacity and capability limitations within central govt & local authorities

Related Government Programmes

Many reforms and reform programmes are starting and underway now.

- Kāinga Ora – Homes and Communities Act 2019, including the Government Policy Statement on Housing and Urban Development, which will provide the overall direction and government priorities for the housing and urban development system
- Resource Management Amendment Bill 2019
- Resource management and Crown relationship obligations in existing Treaty of Waitangi Settlement Acts

- Climate Change Response (Zero Carbon) Amendment Act (once passed), and directions to transition to a low emissions and climate-resilient New Zealand
- National Climate Change Risk Assessment, and implications for a future National Adaptation Plan
- Alignment of regulatory frameworks for natural hazards and climate change under the Community Resilience Group (cross-government programme)
- Urban Growth Agenda
- Review of Three Waters regulation: drinking water, wastewater and stormwater management
- Building System Legislative Reform Programme
- Strengthening Heritage Protection work programme
- Open ocean aquaculture project
- Productivity Commission Inquiry into Local Government Funding and Financing
- Existing RMA national direction and its implementation
- RMA national direction under development, including for: freshwater management, urban development, highly productive land, indigenous biodiversity, historic heritage & aquaculture
- Infrastructure Funding
- Water Services Bill

Some consideration and appreciation of this complexity needs to be born in mind when considering the implications and consequences of changes to New Zealand's natural resource planning systems.

Appendix 2 NZPI Member Survey RMA Review

In December 2019, NZPI surveyed its members to measure and record their attitude to RMA system reform options, and to collect feedback and ideas on the RMRP Issues and Options Paper. This appendix reports analysis and some indicative qualitative feedback from that survey.

The survey was in two parts: the first part examined reform proposals drawn from desktop research of “best practice” planning law; while the second part sought feedback on each of the 14 issues set out in the RMRP Issues and Options paper. Of the 228 NZPI members participating 65% were full or associate members, and 60% of the sample worked for planning and multi-disciplinary consultancies while 30% worked in local government.

Best Practice Reform Options

Statement	Strongly agree	Agree	Neutral	Disagree	Strongly disagree
The concept of “sustainable management” of natural resources has not reliably led to improved, restored or enhanced environmental quality.	24%	45%	14%	17%	0%
The present RMA focus on managing environmental effects needs to be expanded to include planning for the delivery of social and economic outcomes.	30%	32%	17%	16%	5%
The recent cluster of separate NPS’s (Urban Development; Highly Productive Land; Freshwater Management; Biodiversity) lack integrated national direction and guidance on how they work together.	36%	39%	20%	5%	0%
Maori thinking, such as the Te Mana o te Wai concept for managing freshwater resources, should be incorporated more generally into resource management planning in New Zealand.	24%	40%	26%	5%	4%
Effective planning for today’s “wicked problems” including climate change, rapid urban growth, deteriorating freshwater quality, and loss of elite soils is difficult if not impossible within the present RMA system.	23%	41%	13%	16%	7%
Laypeople generally find it hard to find and understand relevant District Plan provisions relating to their residential development.	35%	41%	14%	8%	2%
Regulatory authorities don’t or can’t allocate enough resources to monitor compliance with resource consent conditions rigorously or consistently.	51%	29%	16%	4%	1%
Proposed changes to planning systems should be tested with practitioners to expose implementation and operational issues before being made into legislation.	55%	29%	13%	2%	1%
NZ needs a planning statute that combines development planning with environmental regulation.	27%	33%	29%	8%	2%
NZ needs a hierarchical planning system that enables and requires strategic goal and plan setting at national level, which is delivered at regional and local levels through a spatial plan, subject to environmental regulation and	26%	43%	20%	6%	4%

protection at regional and local levels.					
Regional and local plans need to be in two parts: a spatial plan that sets out planning goals and details of the locality and relevant policies; and a planning scheme just to carry out regulatory requirements.	14%	34%	33%	15%	4%
Regional and local spatial plans need to be prepared with public input to describe and map population trends, demographics, economic development, predominant land uses, infrastructure, and other aspects indicating the future of the areas, and should facilitate the coordination of outcomes from LTMA, LGA and other planning processes.	30%	41%	21%	6%	2%
Specific outcome focused indicators are needed to measure the success of policies and record the fulfilment of goals at national, regional and local levels.	29%	52%	16%	2%	1%
Sustainability needs to be monitored against a functional definition using evidence-based measures and be reported at all levels.	22%	45%	27%	4%	2%
New funding tools are needed for compensation and to support activities such as managed retreat due to climate change and wetland restoration after cumulative pollution.	30%	42%	20%	5%	3%

Various planning process themes were explored in the qualitative responses provided by respondents in this part of the survey. Selected examples are quoted here, as they provide an indicative flavour of member views, and more colour and context to the issues and options explored in the RMRP document.

Planning theme	Respondent comment quoted in full
Effects based planning	<p>The effects based system drives standards downwards as adverse effects re constantly justified on minor or less than minor basis. Strong planning policies with professionally qualified Planners should be empowered to seek betterment or at least to ensure development is in accordance with planning policies and objectives.</p> <p>Cumulative effects, and strategic planning, and the importance of policy need to be covered in any new law. The emphasis on "effects" under the Resource Management Act has been a failure in terms of strategic planning and managing cumulative effects.</p> <p>Effects based approach cannot sufficiently deliver social and economic outcomes. Economic outcomes could be challenging though as I don't believe property values or business profits etc should be valid considerations, however, more general economic benefits are important such as cost benefit ratios etc. I find that it is also difficult to deliver quality design outcomes with an effects based plan.</p> <p>Yep, that used to be "planning" before the RMA. Planning was replaced with market led economic philosophy i.e. abandoning the national importance of first class soils. Taken this long for the circle to come around to realising there is value in planning as opposed to "resource management" and "focus on adverse effects", the latter being responsible for the culture of negativity that pervades the regulatory arms of consent authorities.</p>
Planning and environmental protection - Split vs integrated statute	<p>Splitting the RMA into a natural resources statute and land use planning statute is a stupid idea. If we are to get more integrated outcomes then it is better to resolve issues within a statute. Splitting the RMA would increase the opportunity for legislative conflict and interpretative issues arising.</p> <p>A clear development plan needs to be provided which allows for urban and rural development. The approach to environmental regulation should not overly complicate land use planning, but also not seen as a separate silo. The adoption of an initial EIA process prior to obtaining a consent such as in Scotland would be good way of adding a clear layer of environmental regulation to inform</p>

	<p>without overly complicating land use planning.</p> <p>I agree with the statement, however I feel the RMA could be tweaked to account for this without a wholesale loss of case law and years of 'practice' within the profession. Fundamentally, the RMA is too 'adverse effects' driven. This essentially prevent the 'outcomes' (including positive benefits and effects) to be properly balanced as part of a notification assessment. Developers will often rightly note that notification is the biggest hurdle and risk to the feasibility of development. Therefore, otherwise-positive outcomes are often degraded for the sake of compliance and/or non-notification. Notification decisions should be based upon how a proposal measures up against the planned outcomes of a Plan (i.e. objectives, policies and assessment criteria) - not just 'adverse effects'. In my view there appears to be scope within the RMA to do this, by balancing the outcomes of the development against the objectives and policies of a plan, to reach an overall 'net' view on what the adverse effects of a proposal may be for the purposes of notification. However, either by outdated case law or organisational culture, Council's often simply focus on 'adverse effects'. You may note that many a planning consultant will frame their AEE around the section 104 considerations first, before turning to the question of notification. I think this is an embedded industry-accepted acknowledgement that this is how things should be done. The RMA should therefore, if nothing else, rectify this issue and require a 'rounded' judgement for notification. Some national direction would also be useful to avoid any doubt as to what is to be considered in notification assessments.</p> <p>There will always be conflict between development and recreating paradise -- planning legislation should be the tool to resolve that conflict and should therefore be in one legislation. A holistic view is required which will include mining and transport matters.</p> <p>The two are intertwined. Separating them leaves the environmental regulation as the ambulance at the bottom of the cliff, at the same time despised as a constraint to development (which makes politicians nervous, so they amend it constantly!).</p> <p>My preference would be for the development and environmental regulation to remain under the RMA as environmental issues should be at the core of any development planning. However, I believe that a spatial planning system (embedded in the LGA OR in the RMA, LGA and LTMA, or as a separate act) could provide the strategic context in which planning for urban growth could occur. This would then be tied to the planning and implementation acts (RMA, LGA, LTMA).</p>
<p>District plan provisions are too complex</p>	<p>This has been one of the major failings of central government and MfE in particular. Lay people simply just don't understand the planning process. One very simple solution would be to stop using the term Rules in Plans. There are only two Rules - permitted activities and prohibited activities. The rest are simply a threshold which triggers an assessment at a particular level. If the public were to view it in this context then there might be a better level of understanding.</p> <p>RMA language is itself confusing - the use of the activity status "non-complying" when understood on its own by lay people creates an impression that you cannot do something. Lay people correlate non-complying with what professionals understand as a prohibited activity. I have read countless media articles where opponents or residents focus in on the "non-complying" aspect of the scheme and are amazed that it can be allowed. Merging discretionary and non-complying into a single activity status would be highly beneficial in my opinion.</p> <p>This is a result of the Act's emphasis on natural and physical resources. This emphasis makes it difficult to link objectives and policies to rules relating to urban development. A layperson looks at a District Plan and cannot understand how it relates to their new house or shed extension or yard setback.</p> <p>I'm currently working on improving the website and forms relating to resource consents. But it's very difficult to make this information accessible, especially when 9 out of 10 people don't know there is a difference between a building consent and a resource consent!</p> <p>A lot of rules in district plans need re-thinking and distinctions between zones especially at zone boundaries are often nonsense. For example: - Build a hotel on one side of a road and it might need dozens of car parks, build on the other side and none are needed. - Some streets require on site turning ability others do not. - On sloping sites height restrictions can be conflicting. - Side yard set backs need rethinking. Maybe use UK style rights of ancient light instead. - Site coverage rules often make no sense. - Rotorua's 25m set back from waterways is a massive and disliked</p>

	<p>restriction providing for some unattainable reserve around each body of water. 25m is far too wide. 5 m would have been more than enough. - Most zoning 'Permitted Activities' seem to be based on what is there rather than what should be there. I could go on for ever..... The public find this to pure nonsense that is contained in a near incomprehensible document (District Plan). The government needs to produce a model District Plan, with well explained environmental goals, simple zoning, minimal rules etc, Plus explained physical planning. (Architects and Urban Designers need to have input). Less complicated restrictions. That a lay person can understand. Following this Government based model document should be made mandatory to all councils. The main problem at present, is like asking a lawyer to write a contract - in order to justify their fee and existence they add in every single complication that they can think of. Council planner do the same thing, adding layer of complication to layer of complication, with little restraint as Councillors are lay people who only understand what they are told about the District Plan. Consultant planners do not have the time to go through all the proposed DPs that they may have to work with and propose massive rewriting, And the public, if they can be bothered during a plan review only focus on items that bother them at the time.</p>
<p>Better monitoring is essential for good planning</p>	<p>Monitoring and compliance tends to be the Cinderella of planning. Resourcing is an issue but a greater problem is the resourcing which is available tends to be diverted to squeaky wheels and "neighbours at war" issues rather than the issues which have greater environmental impact. In particular compliance monitoring is thwarted by people being diverted onto the complaints mentioned above.</p> <p>I only have an understanding of this from my own Regional Council. However, it is my experience that if there is a political will within the organization to be "seen to be acting" then resources are directed into compliance and monitoring. For example, the environmental effects arising from dairy farming has resulted in direct CEO KPI's for monitoring farms and has justified a well-resourced farming-specific monitoring program and team. Other monitoring and enforcement is not as well resourced, however, there have been a number of prosecutions resulting from industrial (example The Sanctuary, Hamilton) and municipal infrastructure failures which would suggest that there should be an increase from the limited monitoring that is happening in that space.</p> <p>Monitoring and compliance has long been underfunded (despite council's collecting funds from each consent holder for this purpose). This undermines the whole system as if people don't comply with consent conditions then what is the point of the effort in consenting the proposal? There are very cost effective ways to monitor these days via technology, and councils should be offering lower monitoring charges to those that opt into automated electronic monitoring and reporting of compliance with key conditions. This then gives data to refine and improve conditions.</p> <p>This is more of a "don't" reason. Consent authorities are able to recover costs for monitoring compliance but "customer-centric" approaches seem to dictate that compliance and monitoring shouldn't be a priority focus, in case it generates negative publicity or results in political interference. My Council only has one enforcement officer and we are a large provincial city. Enforcement should be mandatory and Council's should have to resource this function accordingly.</p> <p>Resourcing in the compliance monitoring and enforcement spaces is sadly lacking across most Regulatory authorities . Without proper resourcing of compliance monitoring and enforcement all the policies, objectives and rules expressed in our plans are at risk of failing to deliver the environmental and social outcomes of the RMA. Compliance has been a very poor "cousin" to policy and plan making and consenting activities within regulatory authorities and yet it is as important to maintain the integrity of our RM system.</p> <p>I think they could do a lot better with minimal resources through an integrated compliance monitoring digital platform rolled out by central government that enabled all councils and consent holders to monitor consent compliance within a single cloud based database. However, all councils use different databases and consent holders have ad hoc systems or CS Vue which is dated and doesn't talk to any council monitoring system, so is largely pointless.</p>
<p>National, regional, local planning hierarchy – and spatial planning methods</p>	<p>A clear national planning framework should be developed, which sets requirement for the country. The NPPF in England and the NPF in Scotland are examples of a better practice compared to NZ. The English NPPF provide clear national policy which informs local plans (And is the basis for a decision if a local plan is out of date). It is accompanied by guidance which is easy to read (albeit a professional planner may still be required in many cases). This twin track</p>

approach has reduced planning disputes and significantly reduced the complexity of planning guidance. <https://www.gov.uk/guidance/national-planning-policy-framework>
<https://www.gov.uk/government/collections/planning-practice-guidance> The RTPI led the review that led to a significant consolidation of guidance and they should be approach for guidance. For background: <https://www.gov.uk/government/publications/external-review-of-government-planning-practice-guidance> In addition to this the Scottish NPF has a spatial planning element identifying projects and developments which are nationally significant and thereby giving consent but allowing the detail to be considered at a local level.

What we need is a National Adaptation and Spatial Plan which maps out nationally important bottom lines like the location of climate change retreat areas, hazard areas, regional growth areas and the location of infrastructure requirements to meet that growth. This can then cascade down to Local Spatial Plans and rules.

There are some things that should be decided at the national level and some that should be made locally so there is a hierarchy. Not sure what is meant by a spatial plan and how that might differ from a regional policy statement. Regrettably the term "spatial plan" it is just another name for what in the past have been "growth strategies" "structure plans", not always statutory instruments but they have certainly had influence if the job has been done right.

There needs to be a complete re-think about the functions of TA's and RC's. I would support Regional Councils having a role in enforcing environmental bottom lines and outcomes. I then think that TA's should be responsible for spatial planning, implementing the key directives outlined in the NPS UD and HPL. Just because urban outcomes are intertwined with the environment does not mean that the best way to manage these two issues is through a single-piece legislation or two organisations that sit within a horizontal hierarchy. There will always be conflict between these two issues however I see them best managed by separate organisations who report directly to a centralised body.

Environmental bottom lines established at the national level. Spatial plans at the regional level. Implemented at the regional and local level.

While these are part of any urban, regional and generally environmental planning process, at the core of spatial planning is allocation of resources based on a thorough understanding of the limits to growth or 'carrying capacity' of 'common resource pool'. From this perspective, spatial planning would require a shift in mindset from 'accommodating growth' to 'limiting growth to a sustainable level'.

It is better to map e.g. climate change issues (e.g. retreat land), or location of significant hazards (fault lines, active volcanoes etc) or location of highly productive soils, or (potentially) the location of outstanding natural landscapes, at a national level, so that all the insurers, banks and land owners can have the debate at national level without having to have the same fight multiple times at local level. This will be difficult. Someone will have to pay for the research - maybe the research is better done at local level but the protection mechanism is better debated at national level?. Then when we have situations like at Matata where the council's cannot force people to remove themselves from hazard areas, we can have a national response to existing use rights in danger zones and perhaps a national fund for compensation?

Although I strongly support that spatial planning informs the LTP and the Land Transport Plans it remains a planning document. I do not support that spatial planning becomes a LGA activity-- it should be a RMA activity. I support the content of the spatial plan as suggested as well as the public input to the planning process and outcomes.

Appendix 3 NZPI Branch Workshops RMA Review

NZPI organised branch workshops at Auckland, Wellington, Christchurch, Queenstown and Dunedin between January 14th and 16th to enable facilitated focus-group discussion of the RMRP Issues and Options. Over two hundred members attended. Each workshop commenced with a presentation led by NZPI board member Graeme McCarrison, after which attendees divided into facilitated group discussions (about 10 to 15 per group) each dealing with 3 or 4 of the RMRP Paper issues. Notes were taken at each group, and group facilitators provided verbal report-backs at the conclusion of each workshop (each was planned to last about two hours).

These workshops provided a valuable and rare opportunity for planning practitioners to gather together, listen to each other, and collectively focus on the issues raised in the RMRP Paper. The process enabled individual opinions to be expressed, and – more importantly – it encouraged reflection, and the production of collective responses that shaped the priorities for change that underpin this NZPI submission. Notes from individual workshops are available. A summary overview of feedback from all workshops is provided below, under the group discussion headings.

Legislative architecture

General support for an integrated statute – ie not separating out development planning from environmental protection. Aspiration to holistically manage growth and to improve integration. General support also for retaining effects-based aspects of RMA, while providing for particular outcomes, but also needing to provide for the enhancement of natural resources. Some noted the Queensland system has a duty of care not to cause environmental harm – even in a separated statute.

Strategic integration across the resource management system

Separate legislations would risk disintegration. Need to bring into RMA planning aspects of other Acts specifically infrastructure. Need to consider how national direction integrates with/influences RPS's and regional direction.

Spatial Planning

General recognition appropriate tool in the planning of climate change adaptation. Needs to be defined – what it is for and at what level. General view that spatial planning is good for resolving high-level trade-offs, rather than at district plan level. Can help integrate science and data into planning better – eg 'Smart Growth' planning. Some noted eg of Southern Ireland and 'vision 2040' and planning for growth and 'de-growth'.

National direction

Needs to be an overarching framework setting out trade-offs, as exists in other countries such as UK, Scotland. There are conflicts in national direction currently – eg between freshwater and urban

development. Make it mandatory that national direction solves the big issues – including bottom-lines and lower carbon emissions. Needs to prioritise – what comes first, eg bottom lines – and resolve conflicts. There is inconsistency between hoops that national direction has to go through – local government has to prove to a higher standard that its plans are fit for purpose. Central govt not held to same account for level of rigour. Singular national direction tool should be explored with independent body to test – something like a Planning Commission – and help avoid the 3 year election cycle issue.

Purpose and principles of the RMA

Most of Section 5 is good. Does need to use the word ‘planning’ – bring planning into purpose (noting that NPSUD and its Future Development Strategy – which is a sort of spatial plan - begins to bring planning into the RMA). Needs reference to land use planning/development planning (current reference to ‘amenity’ becomes superfluous). General support for including Te Mana O te Wai (currently too far ‘down’ hierarchy) and environmental bottom line references in purpose and principles. Climate change mitigation and adaptation to be included in Part II. Include achieving enhancement. More aspirational and outcome oriented.

Recognising Te Tiriti o Waitangi

General support for including Te Mana O te Wai (too far ‘down’ hierarchy). And recognition that new agreements and partnerships not recognised. Recognition that individual iwi (in some parts of NZ in particular) can’t readily engage with statutory processes. Support for funding and guidance for iwi management planning.

Policy and planning framework

Need for more national standards within plans – eg noise, parking, glare for example. Iwi management plans need greater funding and resource support. Toward a single stage plan process, with no appeals on policy alongside plenty of consultation. Considerable support for model district plan. (NB: members have a lot to say on this as plan-making is a major part of their work. We suggest their practical experience is of considerable value to this review – greater engagement on more detailed proposals is recommended.)

Consents/approvals

Support for an inquisitorial rather than adversarial approach to change the risk averse environment of planning – make it outcome driven rather than rule driven. General view is effects based planning is reactionary whereas activity based planning is forward looking. Support for community based process – where there are hearings every two weeks (for example) rather than formal notification. (NB: members have a lot to say on this as consenting is a major part of their work. We suggest their practical experience is of considerable value to this review – greater engagement on more detailed proposals is recommended.)

Addressing climate change and natural hazards

Support for inclusion of climate change in the RMA, and into Part 2 or equivalent. Obvious need for national guidance – particularly for small councils. Key requirement is collection of data which is used for managing certainty/uncertainty in risk models – considering the insurance industry. Long term planning needs to be balanced against agility in response to change - eg adaptive management in response to trigger. Much of this thinking also applied to the planning for other natural hazards – eg national science, data collection and modelling – and new system would need to address private property rights and funding/compensation.

Allocation

General support for view that ‘first-in-first-served’ system is broken. Rights and interests of tangata whenua need to be considered. That 35 year duration too long to lock in resource – and that there’s a focus on water use – while there are other resources to consider. Economic instruments are not the only instrument that could be applied.

Compliance monitoring and enforcement

Unanimous support that these functions are poorly carried out now, and that they need to be better funded, noting that the data produced could be required, and be used to inform policy and plan updates.

ENDS