



14 March 2016

Committee Secretariat
Local Government and Environment Select Committee
Parliament Buildings
Wellington

Re: Submission on Resource Legislation Amendment Bill

Thank you for the opportunity to provide feedback on the Resource Legislation Amendment Bill consultation.

About us

Regional Public Health (RPH) is a regional service, organisationally part of Hutt Valley District Health Board but serving the greater Wellington region. Our business is public health action - working to improve the health and wellbeing of our population and to reduce health disparities. We aim to work with others to promote and protect good health, prevent disease, and improve quality of life across the population. We are funded mainly by the Ministry of Health but also have contracts with District Health Boards and other agencies to deliver specific services.

We have a particular focus on children, Māori and Pacific populations. Our staff include a range of occupations comprising: medical officers of health/public health physicians, public health advisors, public health analysts, health protection officers, vision and hearing technicians and public health nurses.

The Ministry of Health requires Public Health Units to make submissions on processes under the Resource Management Act to ensure that public health aspects are considered. For this reason we are submitting on this proposed amendment.

We are happy to provide any points of clarification. We wish to appear before the committee to speak to our written submission. The contact point for the submission is:

Siddhartha Mehta
Public Health Advisor
Email: Siddhartha.Mehta@huttvalleydhb.org.nz
Tel: 04 570 9002

Kind regards

Dr. Jill McKenzie
Medical Officer of Health

Peter Gush
Service Manager

General overview

1. RPH supports the intent of the amendments to the Resource Management Act. We support the main objectives of better alignment and integration across the resource management system. We support the optimisation of the tools under the resource management legislation and commend the action on improving consistency in the consenting process. Also, we welcome the measure for engagement and mandatory participation of iwi and hapu in the resource management process. We support the direction of increased early engagement with stakeholders around planning decisions to facilitate the best outcomes for the community including improvement of public health.
2. We see that there are opportunities to protect and improve public health outcomes through targeted evidence-based regulatory and non-regulatory instruments through the amendment process. Furthermore, we have comments on particular clauses and sections of the Resource Management Act that specifically relate to public health protection.

Specific comments

Proposed change - Relevant sections of the Bill: *Clauses 11, 12*

3. Removal of the obligations on Regional Councils and Territorial Authorities in relation to hazardous substances. **RPH does not support this proposal.**

Reasons:

4. We note that this consultation considers there is a duplication of controls under the Hazardous Substances and New Organisms Act 1996 (HSNO) and the Resource Management Act 1991 (RMA).
5. RPH does not consider that HSNO is necessarily an exclusive and self contained method of regulating the potential risks of hazardous substances.
6. Whilst we accept that there is potential in some cases for duplication, for example, *the application of aerial 1080 where some regional councils require a resource consent although HSNO has well developed controls including a Medical Officer of Health permit regime*, we believe that generally HSNO and RMA regimes are complimentary.
7. Section 142 of HSNO articulates the relationship between the RMA and HSNO. The section requires that any person exercising a power or function under the RMA relating to the storage, use, disposal or transportation of hazardous substances must also comply with HSNO requirements. Section 142 does not, however, require the duplication of HSNO requirements. HSNO pulls together the management of hazardous substances into one law which focuses on their hazards and sets baseline generic standards for their controls.

8. HSNO does not provide guidance to the suitability of locations in respect to the surrounding environment and sensitive sites. The RMA need only deal with particular risks associated with a particular site that are not adequately managed by HSNO generic controls for example:
- For particularly sensitive land-uses additional controls may be required. For instance more stringent requirements for bunding (or a 'bund wall') or secondary containment in areas located over an unconfined aquifer.
 - Areas prone to natural hazards.
 - Proximity to water courses or potable water supplies.
 - Where a site has unusual characteristics which are not contemplated or addressed by the relevant generic HSNO controls.
 - Where a hazardous substances activity is planned in close proximity to vulnerable populations, such as early childhood learning centres.
9. The examples listed above are not inherently addressed in HSNO nor is an enforcement regime outside of generic controls detailed but all have potential adverse public health effects. In addition, HSNO contains significant exemptions to its coverage including asbestos, radioactive substances and biological infectious substances. **RPH strongly believes that in the absence of Territorial and Regional Council oversight, that significant risks to public health is likely if the ability of Consenting Authorities to consider and control hazardous substances is removed.**
10. RPH **recommends** that a more appropriate mechanism to address any perception of duplication between the jurisdiction of HSNO and the RMA would be to require consenting authorities to have in place a formal mechanism when considering consent applications to ascertain whether any further RMA controls are required at all or whether generic HSNO controls are sufficient.

Proposed change - Relevant Section of the Bill: Section 95DA

11. Persons eligible to be considered affected persons for purpose of limited Notification. **RPH is uncertain from our reading of proposed section 95DA whether the Medical Officer of Health would be considered an affected party for other classes of activities.**

Reasons:

12. RPH notes and welcomes the proposed wording of new section 95DA (4) (*Persons eligible to be considered affected persons for purpose of limited notification*) which lists the Medical Officer of Health as a person eligible to be considered an affected person, in the case of a resource consent application for a subdivision unless the subdivision is a non-complying activity.

13. The Medical Officer of Health has traditionally been notified by regional council staff where they have determined that potential health effects of the activity may exist. This has enabled public health services to comment on likely health impacts of proposed activities. This is important as in our experience as consenting authorities do not always have particular expertise in public health.
14. An affected party status allows the Medical Officer of Health the ability to comment on the impact of activities that may not necessary be confined to individual properties. Often adverse health effects are not confined to immediate or adjoining boundary properties. For instance RPH has been involved in commenting on air discharge consents where the impact has been on entire air sheds.
15. It is imperative that public health services across the country continue to have the opportunity to assess resource consent applications in order to gauge their impact on public health and ensure these aspects are considered by consenting authorities.
16. RPH **recommends** that the wording reflects the ability of the Medical Officer of Health to continue to be considered an eligible person in all limited notified consent applications.

Proposed change - Relevant Section of the Bill: *Clause 37*

17. Proposed clause 37 introduces a National Planning Template Regime and it is intended that the National Planning Template may centrally specify that particular rules, objectives or policies be put in place for regional or district plans. **RPH supports simplifying and streamlining proposals, but suggests wider public input in setting plans, policies and rules.**

Reasons:

18. We believe that as wide a public input and submission as possible when setting plans, policies and rules is desirable. Broader input has the potential to identify unintended consequences and effects of rules including potential adverse health effects.
19. It is important that the public notification and submission notification provisions are sufficient to allow effective public input. The proposed clause whilst indicating notification and submission at the Ministers discretion does not specify timeframes.
20. RPH **recommends** that consultation timeframes should be specified under the proposed amendments.

General comments

Enhanced iwi participation

21. **RPH supports proposed clause 38 relating to enhanced iwi participation arrangements.** Maori participation in the sustainable management of the environment is an important action within the Resource Management Act.

22. It is important that enhanced iwi participation arrangements as proposed, build on and are additional to existing applicable sections 6(e), 6(f), 7(a) and 8 of the Resource Management Act 1991.

National Environmental Standards

23. RPH believes that there is benefit in the ability of National Policy and National Environmental Standards to set uniform national standards particularly when setting limits for health effects such as water and air quality regulations.
24. **RPH also supports the proposed clause 25 which enables the making of National Environmental Standards for specific district or regions.**
25. Notwithstanding the intent of proposed clause 25, **RPH notes** proposed clause 27 which clarifies that a rule or resource consent that is more lenient than a National Environmental Standard prevails over the standard, if that is permitted within the standard.
26. Whilst such a clause is of value when considering National Environmental Standards developed for specific regions, **RPH suggests** that proposed clause 27 be applied with care as the overriding principle of a National Environmental Standard is to provide consistency of standards nationally and an acceptable bottom line.

Collaborative planning process

27. **RPH welcomes the changes in the act to support an increased input from the community with the collaborative planning process planning track.** We see this being an active forum where methodologies of risk and benefit can be interchanged with experts and non experts alike.
28. We commend the regulations to increase the transparency collaboration process, with reports made on how the decision was arrived at and what alternatives were considered. RPH suggests that Public Health Officials are also considered in the pool of relevant experts in the planning process.
29. RPH see this as an opportunity to integrate an evidence based health perspective on the benefits an infrastructure project could provide, or draw attention to issues that may arise for public health on both the current and future members of the community receiving the project¹.

New regulations for monitoring and reporting

30. New regulations and reporting standards offer an opportunity for legislation to nudge the built environment in a variety of ways to support and enhance community well-being. This

¹ Public Health Advisory Committee. 2010. Healthy Places, Healthy Lives: Urban environments and wellbeing. Wellington: Ministry of Health.

ranges from improved environmental regulation, zoning, and building codes, to economic incentives and disincentives.

31. We see this as an opportunity for public health agencies to provide expertise around public infrastructure plans and projects that ensure environmental design to keep the community healthy or even improve their state of health².
32. Improved monitoring standards should have the aim of reducing inequities for the community, for example, improving access and affordability for vulnerable groups in the case of new public transport routes or new recreation site developments^{3,4}. Such measures, we suggest, will help direct attention towards addressing structural factors that can support communities to achieve better health outcomes.

² Perdue, W. C., Stone, L. A., & Gostin, L. O. (2003). The built environment and its relationship to the public's health: the legal framework. *American Journal of Public Health*, 93(9), 1390-1394.

³ [The Cities Alliance \(2007\). Liveable Cities: The Benefits of Urban Environmental Planning.](#)

⁴ [Cabinet Office Behavioural Insights Team \(2010\). Applying Behavioural insights to health.](#)