

3 February 2020

Ministry for the Environment
PO Box 10362
Wellington 6143
rmreview@mfe.govt.nz

Re: Transforming the resource management system: opportunities for change - Issues and options paper, November 2019

Tēnā koe

Regional Public Health (RPH) is the public health unit for the greater Wellington region. We work with communities to make the region a healthier and safer places to live. We promote good health, prevent diseases, and improve the quality of life for our population, with a particular focus on children, Māori, Pacific peoples and low income households.

RPH has a duty to reduce adverse environmental effects on the health of people and communities to improve, promote and protect their health under the New Zealand Public Health and Disability Act 2000 and the Health Act 1956.

We are happy to provide further advice or clarification on any of the points raised in our written submission. We wish to make an oral submission. The contact point for this submission is:

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Naku noa, na

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Regional Public Health (RPH) welcomes the review of the Resource Management Act 1991. The review is needed and provides a timely opportunity to relook at how this important piece of legislation can improve, promote and protect the health and wellbeing of communities.

RPH's specific comments

With regards to Issue 2: Purpose and principles of the Resource Management Act 1991, RPH recommends the following:

1. Strengthen protecting, promoting and improving health as underlying principles of resource management

The RMA focuses on the protection of environmental and human health. There is significant opportunity for the RMA to also play an active role in the promotion and improving of environmental and human health.

Reference to and prioritisation of promoting and improving human health explicitly in the RMA is crucial for ensuring that opportunities to do this through resource management decisions are identified and can contribute to improved health outcomes. An example of how the RMA could support improved community health and well-being is via supporting housing and urban development that provides the greatest benefit for the whole community and mitigates any unintended consequences of resource management decisions for those already disadvantaged with regards to the built environment.

The embedding of Te Mana o te Wai into Part 2 of the RMA would also have co-benefits for health promotion and improvement with its hierarchy prioritising the health of the environment followed by the essential needs of people.

To strengthen the promotion and improvement of health the following is needed:

- Include Te Mana o te Wai and its underlying principles in Part 2
- Include promotion and improvement of community health and well-being in Part 2

2. Health input into the resource management planning process should be required

As it stands, Public Health Units (PHU) submit on planning and resource consents as a member of the public. There is no legislative requirement to have a health official such as a Medical Officer of Health (MOoH) review or input into applications. Limited or no prioritisation of promoting and improving health has led to decisions and outcomes that have had negative impacts on health or missed opportunities to improve health and well-being.

Public health input and advice is sought and listened to where the PHUs have established relationships with territorial authorities. Within our region, the role of health officials is recognised and valued particularly in decisions regarding health protection from discharges to land, air or water that could have a negative health impact. However, there are situations where health input has not been sought for non- or limited notification resource consent applications or in planning control

decisions. This has the potential to lead to unintended consequences on health, such as with decisions to locate sensitive receivers (for example an early childhood centre) adjacent to large motorways or industrial premises, with the risk for exposure to poor air quality or potentially contaminated soil.

RPH and other PHUs have specific skills and expertise to identify and promote whole of community well-being. For example, writing submissions and making oral presentations in support of urban intensification, as evidence shows that medium density that is close to transport, health, education, food, and community services can lead to improved health outcomes including social cohesion, and increased use of physical and public transport. In addition, living in warm, dry, safe and affordable housing provide further health benefits. The views presented by PHUs are often in contrast to individuals of the public who can place their personal wellbeing above a whole of community wellbeing focused on their personal property value and physical views.

To ensure that the promotion and improvement of health and well-being is considered consistently, health should have a mandate to report on decisions. One way to achieve this is for health officials to be routinely considered for affected party status, especially around urban planning and discharge to land, air, and water resource matters. This would ensure that PHUs receive appropriate notification and that their advice would be considered and given suitable weighting.

With regards to Issue 3: Recognising Te Tiriti o Waitangi and te ao Māori, RPH recommends:

3. Ensuring and supporting Māori participation and leadership in resource management

The Waitangi Tribunal has noted a failure of the RMA to deliver on partnership outcomes, as well as the lack of resourcing for Māori participation in RMA processes.

When the RMA was established there was an expectation that Māori would have the financial and human resources to respond to RMA matters. In reality this was not the case and little investment was made to enable this to occur. As noted in the options paper and also by Morris Love in his paper *Ten Years of the Resource Management Act for Maori* (2001), that although the RMA promises a lot for Māori it has not delivered. Love identified that Part 2 of the RMA lacked the force to oblige local government to develop partnership arrangements with Māori and there has not been case law developed in these sections either.

The recent 2019 Waitangi Tribunal's *Hauora Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry*, noted that the 3 'P's understanding of the Treaty was insufficient to recognise the Crown's obligations to the Treaty. RPH recommend that the RMA consider the principles that have been required in the health setting to be considered here:

- **Guarantee tino rangatiratanga**, which provides for Māori self-determination and mana motuhake in the design, delivery and monitoring of sustainable resource management.
- **Equity**, as equitable outcomes for Māori can only be ensured when there is equitable involvement from the beginning.

- **Active protection**, ensuring that the Crown, its agents and its treaty partner are well informed on the extent, and nature. This includes ensuring that the Crown, its agents, and its Treaty partner are well informed on the extent and nature, of both Māori health outcomes and efforts to achieve Māori health equity.
- **Options** which requires the Crown to provide for and properly resource kaupapa Māori sustainable resource management activities.
- **Partnership** which requires the Crown and Māori to work in partnership in the governance, design, delivery, and monitoring of sustainable resource management activities. Māori must be co-designers, with the Crown, of sustainable resource management.

The environment is integral to te ao Māori which means there are significant synergies with the RMA. However, currently the RMA functions within a western legal framework. To **guarantee tino rangatiratanga**, new ways should be developed for Māori to interact with RMA processes, space should be provided for Māori knowledge, and values and governance should be better integrated. This may involve, for example, holding RMA hearings and court cases in a Marae setting with Māori kaumatua and advisors present (similar to Māori youth court). Love noted that the Waitangi Tribunal is considered to be more culturally friendly than the Environment Court and therefore more issues have been raised in that way than through other judicial bodies.

Increased Māori governance and participation in resource management will contribute to improved Māori health outcomes. The Whanau Ora outcomes framework provides a description of wellbeing that includes being responsible stewards of the living and natural environment, being self-managing and empowered leaders and participating fully in society – participation and governance with the RMA process would contribute to this.

RPH supports:

- the integration of Part 2, s6-8 and the inclusion of the principles from Te Mana o te Wai (as noted above)
- deepening an understanding of Treaty principles in Part 2 – for example, include the five principles listed above
- prioritise the principle of tino rangatiratanga through the:
 - provision of funding mechanisms to support Māori participation
 - removing of barriers to the uptake of opportunities for joint management arrangements in s36B and transfer of powers in s33.

With regards to Issue 4: Strategic integration across the resource management system, RPH recommends:

4. Provide for spatial planning within the RMA with statutory linkages to the Local Government Act 2002 (LGA) and other relevant legislation

RPH engages with councils around district plan changes. For many councils this is an ad hoc process with a small change here and there, whereas for others it is a larger change within an existing plan. Council plans, strategies, and budgets are often fragmented and inconsistent with each other and

proposed changes or areas of growth can be a result of lobbying or searching for a short-term fix and do not consider a wider array of needs. There is a need for spatial planning for all regions that is integrated with land use plans and includes environmental protection and restoration, climate change mitigation and adaptation, rural land use change and resource management in the coastal marine area.

Spatial planning within the RMA would give it the legal standing and weighting through which to encourage integrated growth planning that considers: infrastructure requirements over time, brown- and green-field development, consideration for hazards and climate-vulnerable areas as well as protecting and enhancing the natural environment.

The use of spatial planning has co-benefits for health through outcomes such as compact neighbourhood design with easy access to key services, increased affordable and diverse housing, engaging with the natural environment, opportunities to achieve the protection of the natural environment and the sustainable development to support health of current and future generations.

With regards to Issue 5: Addressing climate change and natural hazards, RPH recommends:

5. The RMA should be used as a tool to address climate change mitigation

Specifically, the RMA should:

- Add reference to climate change mitigation to Part 2 of the RMA
- Use spatial planning processes to identify future adaptation responses

Climate change will continue to have effects on the natural and built environment which will have an impact on population health. Climate change does and will continue to exacerbate health problems that already exist, particularly among those with the least protection, resilience and capacity to adapt. However, acting on climate change has co-benefits for health.

Embedding climate change into the RMA ensures that it is considered and taken into account through all planning processes – this is both cost-effective and can be integrated into spatial plans to ensure that future climate risks are mitigated and avoided where possible.

RPH's conclusions

Thank you for the opportunity to comment on *Transforming the resource management system: opportunities for change - Issues and options paper*. We strongly encourage the panel to ensure that community health and well-being is prioritised and integrated into the RMA to ensure that future legislation improves, promotes, and protects the health of the population of Aotearoa New Zealand and that all members of society can benefit equally. We believe that strengthening the input of health agencies into RMA processes will further support this aim.