
3 February 2020
To: The Resource Management Review Panel  
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Name of Submitter: Matamata-Piako District Council C/- The Chief Executive  
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Submission:  
This is a submission by the Matamata-Piako District Council on the issues and options paper entitled ‘Transforming the Resource Management System – Opportunities for Change – Issues and Options Paper – November 2019’, prepared by the Resource management Review Panel. The content of this submission follows overleaf.

Council appreciates the opportunity to provide comments on the document.
1. Introduction

This submission is presented on behalf of the Matamata-Piako District Council being a District within the Waikato Region. The district is approximately 175,000 hectares and is bounded by the Kaimai Ranges to the east and is well known for its dairy farming heritage and thoroughbred racing industry.

The district encompasses many diverse environments ranging from the Kaimai-Mamaku Forest Park to the 10,200 ha Kopuatai Peat Dome, a globally unique wetland. The five leading employers in the district are manufacturing, agriculture, construction, retail trade, education and training.

The District has a total population of 34,404 with an urban population of approximately 58% within the towns of Matamata, Morrinsville and Te Aroha. Over the last census period Matamata increased in population by 24%, Morrinsville by 18% and Te Aroha by 21%. The remainder of the population (42%) is within the rural area.

2. Overall Comments

The preparation of this submission has taken into consideration matters which were identified by the New Zealand Planning Institute Members Survey; and the Future Proof Implementation and Committee submission.

Council does not necessarily agree with the need to make legislation changes on all issues as there are elements of the current system that are working well. There needs to be more integration across the various statutes for the governance of resource management and clearer direction at the national level.

The current planning system lacks alignment between various planning, funding, regulation and decision-making processes therefore better integration of existing provisions, including the integration between planning and funding tools. This could be achieved through Spatial Planning which would then be imbedded into Regional and District Plans.

3. Issue One: Legislative Architecture

Question 1: Should there be separate legislation dealing with environmental management and land use planning for development, or is the current integrated approach preferable?

Two broad options are identified within the paper as to how the Resource Management Act (RMA) can address improved outcomes for both the built and natural environments. Firstly, by retaining the RMA as an integrated statute with enhanced principles for land use and environmental management or splitting the RMA into a land use planning statute and a separate environmental management statute.

Council is of the view that retaining the RMA as an integrated statute and retaining local decision-making is the preferred option. The built environment and the natural environment are not separate from each other. It would be impossible to disentangle or separate these. The environmental, social, economic and cultural focus of Part 2 should apply to all developments, whether involving the built and/or natural environment.

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Case law has been developed over the last 20 years which provides direction as to how the RMA is to be implemented. The creation of new legislation would likely result in costly new litigation as the interpretation of any new act(s) was tested through the courts.

As discussed below under question 2, Part 2 of the RMA provides adequate context, however the RMA currently provides little in the way of strategic direction or spatial consideration of the complexity of urban environments. Spatial planning, if embedded correctly into the relevant act(s), could enable better outcomes for the built environment through a strategic approach rather than the piecemeal approach provided through a purely effects-based planning regime. For example, one spatial plan for an urban area, district or sub-region where appropriate, could be developed which addresses the planning, infrastructure and funding elements of planning for the area. Such an approach could work well for the urban areas of the district and provide for growth.


Question 2: What changes should be made to Part 2 of the RMA?

The report identifies that the RMA is primarily a reactive framework concerned with managing the adverse impacts of development and has insufficient focus on the positive outcomes that can be derived from planning for resource use.

The purpose of the RMA, including enabling people and communities to provide for their social, economic and cultural well-being while protecting the environment, is applicable in both urban and non-urban areas. It establishes a resource management system which has as its heart a sustainable management purpose. Whilst the application of the sustainable management of the Act has not always resulted in the environmental outcomes that may have been anticipated, Part 2 remains a powerful bottom line to ensure that environmental, social, economic and cultural matters are addressed in development. These principles should be retained or used as the basis of development of any new legislation, should that be the chosen option.

Question 3: Does s5 require any modification?

Council of the view that section 5 correctly reflects the scope of sustainable management and is appropriate for both the environmental and urban growth components of planning.

Question 4: Should ss. 6 and 7 be amended?

The matters covered in section 6 and 7 are important matters and there is well established case law to assist in the interpretation of these sections. These should be retained however s6 c) should be amended to align with the Draft National Policy Statement of Biodiversity “the protection and enhancement of areas of significant indigenous vegetation and significant habitats of indigenous fauna” This will assist with the degradation that has occurred over the years.

Question 5: Should the relationship or ‘hierarchy’ of the matters in ss. 6 and 7 be changed?

Council is comfortable with how section 6 and 7 are working at the present time.
Question 6: Should there be separate statements of principles for environmental values and development issues (and in particular housing and urban development) and, if so, how are these to be reconciled?

There should be an overarching set of outcomes sought at place, which will provide certainty as to the essential elements required when planning for urban areas, which could be established through a National Policy Statement. These should be implemented regionally and locally but under a common set of principles. Spatial planning, supported by strong objectives and policies in regional and district plans, could then be a tool to ensure that short-term decision-making is aligned with long-term outcomes sought for urban areas.

Question 8: What other changes are needed to the purpose and principles in Part 2 of the RMA?

Council considers that Part 2 is already fit for purpose subject to the amendment identified in question 4. The RMA could explicitly require the achievement of positive outcomes when it comes to managing development in the urban environment, but this would be better achieved as part of other tools such as spatial planning or the development of a National Policy Statement.

5. Issue 3: Recognising Te Tiriti o Waitangi/The Treaty of Waitangi and te ao Maori

Question 9: Are changes required to s8, including the hierarchy with regard to ss.6 and 7?

Section 8 is clear that the principles of the Te Tiriti o Waitangi/Treaty of Waitangi must be taken into account.

Question 10: Are other changes needed to address Maori interests and engagement when decisions are made under the RMA?

Council notes that there are sufficient provisions under the RMA, however it does identify that further improvements in practice could be made within the existing provisions without the need for further change. It is noted that Treaty Settlements are already influencing practice under the RMA, for example through Mana Whakahono a Rohe - Joint Management Agreements. It is essential that iwi and hapu are sufficiently resourced to participate effectively.

6. Issue 4: Strategic Integration Across the Resource Management System

Question 11: How could land use planning processes under the RMA be better aligned with processes under the LGA and LTMA?

The complexity of the current planning system across numerous acts can create a lack of alignment between the planning and delivery components of the system. The ‘effects-based’ nature of the RMA can make it difficult to formulate and implement a strategic approach to planning through which to integrate the various components of planning and delivery under the RMA, LGA and LTMA. Spatial planning, if embedded correctly into the relevant Act(s), could enable better outcomes for the built environment through a strategic approach rather than the piecemeal approach provided through a purely ‘effects-based’ planning regime.

The Environmental Defence Society in their document “Reform of the Resource Management System – the Next Generation” (February 2019) suggested as an option that a “Spatial Planning Act” could be introduced which would mandate the creation of spatial plans, with the intention

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of them guiding integrated decision-making under the RMA, Local Government Act, Land Transport Management Act, and the spatial components of other statutes. This could provide a good mechanism to integrate the various acts. This would need to be integrated into the other Acts e.g. at sections 62, 67 and 75 of the RMA (content of regional policy statements, regional plans and district plans).

Alternatively, a section in the LGA could be added to require spatial plans in a similar way to the way that the Auckland Spatial Plan is required through the Local Government (Auckland Council) Act 2009.

**Question 12: What role should spatial planning have in achieving better integrated planning at a national and regional level?**

Spatial planning is a useful tool to align various components of the resource management planning system at a sub-regional (where appropriate) or district level which could align not only local government matters but also central government matters for urban areas. It can set overarching strategic direction for an area, indicate the location and timing for the provisions of infrastructure, priority areas for investment, areas where development will be provided for, significant natural areas, and other strategically significant priorities for an area.

Any spatial plan needs to be a statutory document which could then be embedded into a Regional Policy Statement and then into Regional and District Plans without a further consultation and appeal processes on matters already set out in the Spatial Plan.

Council is however wanting to ensure that local decision-making is retained.

**Question 13: What role could spatial planning have in achieving improved environmental outcomes?**

Environmental outcomes must be one of the outcomes the spatial plan would be seeking to achieve. Spatial plans should be tied to the sustainable management purpose of the RMA so that it can achieve the integration of the environmental, social, economic and cultural aspects of the Act.

**Question 14: What strategic function should spatial plans have and should they be legally binding?**

The strategic function of spatial plans is outlined below and Council agrees that any spatial plans should be legally binding.

**Question 15: How should spatial plans be integrated with land use plans under the RMA?**

Spatial plans that have clearly defined spatial boundaries should be integrated via the Regional Policy Statement into regional (as relevant) and district plans. This will ensure consistency across the various planning implementation instruments. Beyond the RMA, other policy documents under other acts, such as Long Term Plans, Infrastructure Plans and Regional Land Transport Plans could be integrated with spatial plans as well. The statutory integration of spatial planning will be important to ensure that the necessary integration occurs across the various acts.
7. Issue 5: Addressing Climate Change and Natural Hazards

Question 16: Should the RMA be used as a tool to address climate change mitigation, and if so, how?

The Climate Change Response Act (CCRA) is the main policy tool to address climate change mitigation and this should remain. Spatial Planning for land use and infrastructure could however be used to assist in achieving targets and complement the Act by influencing the way urban areas develop. For example, Councils can influence an area by planning for places where people can live, work and play and are able to limit their need to travel, or by making it easy to walk or cycle. Also well planned urban form can both ensure our urban areas adapt and are resilient to the effects of climate change such as adapting infrastructure to ensure it is able to cope with future extreme weather events, and moving towards ‘green infrastructure’ and ensuring that land use planning decisions are cognisant of, and future proofed for future climate changes.

Question 17: What changes to the RMA are required to address climate change adaptation and natural hazards?

The RMA was amended in 2017 to provide a stronger framework for management of natural hazards and the Ministry for Environment was considering the development of a National Policy Statement to provide clearer national direction. This should proceed so as to provide guidance on how these matters should be addressed, as these certainly are costly and at times very difficult exercises for each authority to undertake. Consideration should also be given as to how funding mechanisms for local authorities can be put in place where land is required to be retreated due to natural hazards.

Question 18: How should the RMA be amended to align with the Climate Change Response Act 2002?

The National Adaptation Plan developed under the CCRA should be utilized to assist in developing a National Policy Statement as mentioned above to provide clear national direction.

8. Issue 6: National Direction

Question 19: What role should more mandatory national direction have in setting environmental standards, protection of the environment more generally, and in managing urban development?

At present there are numerous National Policy Statements in the pipeline, to provide national direction and at times there are competing demands with other pieces of legislation. If the government direction is put together as one for local and regional spatial plans it would provide local government with a clear set of policies which could integrate a suite of legislative outcomes where there is a spatial element.


Question 20: How could the content of plans be improved?
Question 21: How can certainty be improved, while ensuring responsiveness?

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Provide clear direction that those matters in Part 2 are required to be dealt with in plans along
with those matters outlined in National Policy Statements and National Environmental Standards
with alignment to others plans e.g. Regional Policy Statement etc. By ensuring national direction
is provided; it would support the matters above and national assistance could be provided to
those authorities which have difficulty meeting the direction.

Question 22: How could planning processes at the regional and district level be improved to
deliver more efficient and effective outcomes while preserving adequate opportunity for public
participation?

Provide the opportunity to have a ‘single stage’ process so that the decision-making body makes
a final decision or makes recommendations to the Council. This negates the issue of having to
have those matters appealed against at the Environment Court dealt with as a new hearing and
that matters of appeal should be restricted to matters of law only to the High Court. This is on
the basis that:
- Mediation occurs, especially before decisions are made on any proposal
- The use of expert witnesses
- Accreditation and experience of hearing panels

Question 23: What level of oversight should there be over plans and how should it be provided?

That all plans (including spatial plans and plan changes) be provided as DRAFT plans to all
relevant Ministries and appropriate authorities. Feedback should be much easier over time as
the National Planning Standards now provide a consistent framework for the structure of plans.

Question 26: Are changes required for other matters such as the process for designations?

Designations are usually for large network infrastructure and often require long lead in times. To
be cost effective it is better to have the designations in place for longer periods of time as this
can reduce the costs, particularly for land purchase. Quite often the timing of the development of
the designations are not aligned and should have longer timeframes identified for use e.g. rather
than the standard 5 years a greater time period such as 10 years should apply. Alignment of
designations and the commitment to funding through Strategic Infrastructure Plans or other
means should also be in place.

10. Issue 9: Economic Instruments

Question 29: What role should economic instruments and other incentives have in achieving the
identified outcomes of the resource management system?

Council supports the notion of strengthening the provisions for financial contributions so that
fair contributions towards not only mitigating the effects of development but also to strengthen
the provisions to enhance and restore aspects of the environment, such as biodiversity. National
direction and guidance on the use of economic instruments would be useful for local
government.

Question 30: Is the RMA the appropriate legislative vehicle for economic instruments?

The RMA is an appropriate vehicle for economic instruments as it is linked to development and the
use of resources. It would be inappropriate to rely on additional legislative mechanisms when you
have the opportunity under the RMA.

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11. Issue 10: Allocation

Question 31: Should the RMA provide principles to guide local decision-making about allocation of resources?

Under the current system, on the first in first served basis, there is limited ability to weigh the relative benefits of different proposals in the context of a wider strategy with competing demands of environmental, social, economic and cultural values. National guidance on the principles of the values and the weight of these could be put in place. This will provide guidance for local decision-making about the allocation of resources and these would be reflected in Regional Policy Statements to provide context within which decision-making would occur.

If water take allocations have a common expiry date for resource consent water takes this would allow these to be considered together on a comparative basis. The merits of competing applications would then be considered before consent was granted or declined. We acknowledge this may create a resource issue.

Question 32: Should there be a distinction in the approach taken to allocation of the right to take resources, the right to discharge to resources, and the right to occupy public space?

The right to take resources, the right to discharge to resources, and the right to occupy public space are different issues and there should be distinctions in the approach to all these matters.

Question 33: Should allocation of resources use such as water and coastal marine space be dealt with under the RMA or elsewhere as is the case with minerals and fisheries, leaving the RMA to address regulatory issues?

Council is the of the view that the RMA should continue to allocate resource use for water as water is so inter-related with landuse. The Regional Council boundaries are largely consistent with the boundaries of major water body catchments. This is the scale at which planning for water takes and water discharges should occur, rather than at a national scale. Water take and discharge issues are also tied closely to specific attributes of catchments — resource consents will address the need to avoid, remedy or mitigate adverse environmental effects. The methods which various councils use to allocate these resources will differ depending on the nature and attributes of the catchments. This doesn’t lend itself to a national approach.

12. Issue 11: System Monitoring and Oversight

Question 34: What changes are needed to improve monitoring of the resource management system, including data collection, management and use?

Council has had a monitoring strategy in place since 1999 and has consistently implemented this strategy for the monitoring of the State of Environment and District Plan.

It would be useful if the set of indicators that are used at the national level for state of the environment monitoring apply to the regional and local levels so that a comprehensive and nationally coordinated environmental monitoring system is put in place. It may be that the
'State of the Environment' monitoring be undertaken at the regional level as resourcing is unlikely to be available at the local level. These indicators could be stated as part of regulation within the RMA so that these get locked in for reasonable time periods or that the Environmental Reporting Act 2015 is amended.

District plan and plan monitoring should be retained at the local and regional level. It is suggested that Councils should be required to prepare 'Monitoring Strategies' so as to provide a pathway and plan for the gathering of data.

**Question 35: Who should have institutional oversight of these functions?**

The Ministry for the Environment should co-ordinate and provide State of Environment reporting with the regional councils and the Parliamentary Commissioner for the Environment providing the oversight of the function.

The Ministry for the Environment should also have oversight of Plan monitoring.

**13. Issue 12: Compliance, Monitoring and Enforcement**

**Question 36: What changes are needed to compliance, monitoring and enforcement functions under the RMA to improve efficiency and effectiveness?**

The monitoring of permitted activities is costly and time demanding; adding pressures to Council’s resources. It is a question as: Who should be paying for such monitoring?

**Question 37: Who should have institutional responsibility for delivery and oversight of these functions?**

Council believes as district plans are local the local authority should have the responsibility to ensure delivery happens.

**Question 38: Who should bear the cost of carrying out compliance services?**

The applicant for resource consents and the community for other matters.


**Question 39: Although significant change to institutions is outside the terms of reference for this review, are changes needed to the functions and roles or responsibilities of institutions and bodies exercising authority under the system and, if so, what changes?**

**Question 40: How could existing institutions and bodies be rationalised or improved?**

**Question 41: Are any new institutions or bodies required and if so what functions should they have?**

Council is of the view that plan-making and land use regulation needs to remain with councils with guidance from central government. This will ensure that different local circumstances and needs are addressed and that local communities get to have their say in key policy outcomes for their community.
There is room for further responsibilities for central government and infrastructure providers in terms of significant projects with better alignment of land use and infrastructure, and new and innovative infrastructure funding options. This would help to support better urban planning.

National interests in planning outcomes may include transport, particularly large roading projects; social infrastructure (e.g. education and health) and affordable housing initiatives,

15. Issue 14: Reducing Complexity Across the System

Question 42: What other changes should be made to the RMA to reduce undue complexity, improve accessibility and increase efficiency and effectiveness?

Any revised planning system should consider providing a standardised process which can enable plan changes/variations to be prepared quickly and cost-effectively. Third party rights could also be limited for some plan changes/variations that address areas of national policy significance e.g. affordable housing.

Plan changes or consents could also be fast tracked whereby the developments were already part of an agreed settlement pattern contained within a spatial plan. Considering, consultation would have already been undertaken as part of the development of the spatial plan and subsequently these would have been imbedded into a Regional Policy Statement which would have been through a Schedule 1 process.

Question 44: Are any changes required to address issues in the interface of the RMA and other legislation beyond the LGA, LTMA?

Ensure that all the relevant legislation is integrated.