12 February 2020

Ministry for the Environment  
PO Box 10362  
Wellington 6143

Sent by email: rmreview@mfe.govt.nz

Dear Sir/Madam

SUBMISSION ON RESOURCE MANAGEMENT SYSTEM REVIEW

Thank you for the opportunity to submit on the Resource Management Systems Review.

Please find attached the Waikato District Council’s submission, which has been formally approved by the Council on 11th February 2020.

Should you have any queries regarding the content of this submission, please do not hesitate to contact or phone 0800 492 452.

Yours sincerely

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Introduction

The Waikato District Council (WDC) appreciates the opportunity to make a submission on the Resource Management System Review 2019.

The Waikato District spans more than 400,000 hectares between Hamilton City and Auckand City and is comprised of six towns (the largest being Huntly with approximately 7800 people) and multiple villages of various sizes. The District has strong employment, social and economic relationships with both Hamilton City and Auckand City. WDC, as a regulator, manages large rural and significant ecological environments and recognises the importance of the Resource Management Act 1991 (RMA) and how it helps manage the Waikato District.

WDC's submission is based mainly on the issues and options paper (“the paper”) entitled ‘Transforming the Resource Management (RM) System – Opportunities for Change – Issues and Options Paper – November 2019’, prepared by the RM Review Panel. The content of the submission follows overleaf.

WDC is a partner in Future Proof and member of Local Government New Zealand (LGNZ), both of whom will also be making submissions on the issues and options paper. These will be more general than the WDC submission, which provides a specific district-level view of the issues and options paper. WDC supports both of these submissions, and this is reflected in the attached submission.

WDC, is responsible for a large jurisdiction between Auckand and Hamilton, is experiencing high growth pressures throughout its district. It is currently in the hearings process of a new district plan with a budget for the plan review in excess of $12 million. Waikato District and part of Franklin district amalgamated in 2010, as part of the Auckand reorganisation. Since then, the Waikato district plan has comprised two distinct district plans (Waikato and Franklin) with varying objectives, policies and rules. Given all of these considerations, WDC feels well-positioned to provide feedback on the current RM Systems Review and what needs consideration by the panel.

Overall Comments

The RMA has become overly complicated and litigious without necessarily leading to the flow-on effects of sustainable management which is its core purpose. The Schedule One process for plan development and associated hearings can be costly, take a long time and be subject to hijacking by private parties or organisations with vested interests. There are multiple groups in these processes to contend with and lots of conflicting interests to try and balance. This occurs to some extent in the resource consenting process, albeit with shorter timeframes. Where private interests reap the reward of resource use, communities can face social, economic, cultural and ecological costs beyond any social benefits.

Community consultation is a requirement and valuable input into the RM System and other local government processes. However, it can also be hard to engage all of the community and keep them interested in these regulatory spaces as single-issue interest groups can often dominate community engagement processes. Councils have to expend significant resources to engage appropriately, manage feedback or submissions and keep communities interested through lengthy processes.
Councils also now have to guard against engagement fatigue if they are engaging the community on multiple areas concerned with national, regional policy processes which are continually changing. These can include controversial resource consents, Long Term Plans, growth strategies, private plan changes, designations, urban development, town centre upgrades and ecological matters like water quality and biodiversity. Councils do not initiate all of these policy changes, yet they are charged with multiple roles in the process from the gatekeeper through to the decision-maker.

Similar to the Future Proof and LGNZ submissions, WDC agrees with many of the issues and options raised in the paper. However, WDC does not know if they all can be addressed through legislative reform. A better option may be to improve **guidance, implementation and resourcing** of the RMA system and look at what tools could improve issues, e.g. spatial planning and nationally coordinated databases.

A recurring theme through this submission is that the current planning system is **complex** and **challenging to engage with effectively**. The RMA creates competing interests from the three pillars of sustainability where there is a need to consider social, economic and environmental matters. It is clear that the RM System under-values natural ecosystems and their importance to communities. The current implementation of the RMA is not protecting natural areas and is stifling economic activities that support and result in the social betterment of communities. The issues and options paper identifies that the environment is suffering, but would re-addressing this area of the RM System lead to unintended social and economic impacts?

Examples abound in the regulatory and policy areas of these competing areas and where trade-offs are made or challenged. There is a need for **horizontal** and **vertical integration** in the RM system. Better alignment of central, regional and local government objectives in decision-making is required, as is **incentivising compliance** and **good practice** over-focusing on punitive regulatory enforcement.

**Consultation Issues and Questions**

**ISSUE 1 - Legislative architecture**

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

The paper suggests that there is insufficient protection for the natural environment and suggests setting firm or environmental limits or creating a specific environmental bill, e.g. UK Environmental Bill. Guidance and improvements on implementation may be a better option than a new environmental bill.

WDC do not agree with splitting the legislation, as local government would have to deal with two pieces of legislation rather than a single document. This would reduce administrative efficiency and add barriers to public understanding and participation. Environmental management and land use planning are interconnected. Some direction is provided in the commentary around the RM System, which centres on a lack of clear guidance and policies.

WDC considers that strengthening the National Environmental Standards (NES) and National Policy Statements (NPS) would improve the situation, by having well thought out NPS/NES that have been appropriately developed and tested. Appropriate implementation packages that are well resourced could lead to a better implementation of the overall RM System.
ISSUE 2 - Purpose and principles of the Resource Management Act 1991

WDC supports the purpose and principles of the RMA. The United Nations Sustainable Development Goals (SDGs) are recognised as a blueprint for achieving a more sustainable future for all and are increasingly being picked up from governments and business. The SDGs address the global challenges we face, including those related to poverty, inequality, climate change, environmental degradation, peace and justice. Linking the SDGs to the reviewed RMA may strengthen its purpose and principles without requiring significant changes to the legislation.

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

WDC does not support a change to Part 2 (Purpose and principles) of the RMA and as discussed above an alternative might be developing new NPS and NES documents with clear resources and implementation actions around them. Improving resource management practice through more guidance and implementation using the existing tools available will improve consistency, and this is where efforts should be directed.

Question 3 - Does s5 require any modification?

If protecting the natural environment is the core requirement, then this element should be strengthened. An alternative to the above statement is to tie the RMA into the United Nations SDGs, which give a blueprint to achieve a better and more sustainable future for all. As an example, SDG 15: “Life on Land” highlights environmental degradation and promotes the protection of terrestrial and freshwater biodiversity and ensuring long-term sustainable use of terrestrial and freshwater natural resources.

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

WDC does not support amendments to these sections. WDC supports the obligations on local authorities and decision-makers around consultation and to incorporate Tangata Whenua interests in their decision making.

Improvements could be gained with more guidance and resources to help Tangata Whenua provide consistent engagement in the RM System. Tangata Whenua engagement varies between iwi and hapu depending on their resourcing and ability to engage. There are good examples of Tangata Whenua engagement, and these should inform future guidance.

Question 5 - Should the relationship or ‘hierarchy’ of the matters in section 6 and 7 be changed?

WDC has some doubts about whether the hierarchy itself affects planning outcomes. Heritage was shifted from Section 7 to Section 6 without changing anything beyond the associated rhetoric. The paramount issue addressed in every district plan relates to local amenity, a Section 7 matter, despite Section 6 matters supposedly being more important. WDC suggest that the RMA could specify that this is primacy where there is conflict between matters of national importance and is not a hierarchy. Consider some clear guidance around what a balancing exercise looks like, utilising current case law. The current system leaves it open to variability and interpretation, with different councils considering different matters depending on what is in their district. For example, Section 6(c) and Section 6(e) are the two main parts utilised in the Waikato District under its resource consent regime.
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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?

We do not think so. There are competing interests apparent in Section 5 of the RMA; enabling development while protecting the environment. Therefore are these RMA principles meant to give more direction to councils? An alternative option is that these principles are brought through existing and proposed NES and NPS with better links to spatial plans. There could be dangers around focussing any new legislation too specifically on current issues, which might tend to distort consideration of long term resource management matters. For example, the current perceived need for urban expansion can supplant longer-term thinking about the preservation of high-quality soils for production.

Question 7 - Are changes required to better reflect te ao Māori?

Giving guidance on engagement with te ao Māori for all parties and seeking consistency across the country would be beneficial. Ministry for the Environment (MfE) needs to agree on a consistent approach with some of the larger iwi and hapu groups and resource other te ao Māori groups to establish this level initially. WDC has had success by partnering directly with Waikato-Tainui, Tangata Whenua and the Waikato River Authority which was introduced through Waikato River settlement legislation.

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

Key themes coming through include the distinction between the RMA as a piece of legislation, the RM System and the associated processes. Are the issues identified in the issues and options paper more a problem of implementation and clear national direction than flawed legislation? Improving guidance, resources, innovation and regulatory tools may lead to better implementation of the purpose.

Central government's role in the RM System is essential, but care around extending their decision-making abilities over local and regional areas should be taken, as decision making may shift away from local values and disrupt transparency and accountability. The LGNZ submission reflects on regional spatial planning as a vehicle to bring the government perspective into decision making without upsetting the balance between national and local directions. The added benefits of this approach are that it may insulate decision making from governmental political cycles.

Guidance and implementation are needed; and reassessment of the RMA's context in line with the United Nations Sustainable Development Goals (SDGs) needs consideration. Some of the SDG's do sit outside the RMA in other pieces of legislation, but the interconnections between them could be strengthened.

ISSUE 3 - Recognising Te Tiriti o Waitangi / the Treaty of Waitangi and te ao Māori

Question 9 - Recognising Te Tiriti o Waitangi / the Treaty of Waitangi and te ao Māori

The RMA has shown a failure to deliver on the partnership principles, but this is variable across the country, districts and regions. There are difficulties in consultation processes in some places, mainly where there are multiple iwi, hapū and overlapping rohe.

WDC supports better resourcing of iwi and a consistent approach. Iwi who have received treaty settlements have been able to engage better, and we are starting to see an improved partnership
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approach. Those awaiting settlements have not always been able to engage to the same level in the RMA process well. Delays and rising costs have meant frustration for councils, Māori and applicants.

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

The development of RMA documents should be undertaken in more of a partnership approach. MfE could work out a standardised version of this engagement to improve the above. Maybe a hierarchical structure based on national issues, down to regional issues, then localised with defined levels of engagement at each level would be useful with Māori discussions.

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?

Both of these acts put requirements on local government in terms of social and economic matters. The RMA, particularly in environmental management, does not always consider this. Amendments of these acts to acknowledge the interconnection and national guidance or even practice notes on these matters would help in this space.

Spatial planning may be the key to better integration of these three acts from a top-down national, regional and local level. The detail could come at a local level with urban development plans as a bottom-up approach. Spatial planning also has the ability to bring complex socio-political issues and institutional processes together to enable transformational projects within an urban area or a region. WDC is supportive of this. WDC also notes that remnants of the LGA 1974 are still in force in relation to roads. This is not an issue for strategic planning but can add cost and confusion to implementation processes. Any legislation review should look at tidying this up.

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

WDC supports spatial planning and considers this should play a substantial role in better integration across all levels of government. The technology rollout of this process needs to be consistent nationally, regionally and locally. Development of legislative linkages between agreed strategic directions, subsequent spatial plans and council plans is required. A consistent mechanism of engagement with the central government, iwi, private and public sectors needs to be considered and developed to allow integrated planning. The data and mapping systems should be in alignment or, if councils are running multiple systems, these need conversion at a regional or national level to implement a consistent approach.

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

WDC supports spatial planning as an essential tool to improve environmental outcomes by visualising constraints and opportunities within an environment at a sub-regional scale while preventing ad-hoc development. Additionally measuring environmental impacts at all levels of government with consistent data sets (converted data systems) would be an essential step to inform spatial planning. All government information may need to shift to consistent systems over time. To get a significant picture of environmental changes from a national to a local level, all parties should have access to the information.
Question 14 - What strategic function should spatial plans have, and should they be legally binding?

WDC supports working with stakeholders around strategic plans and sees merit in having some statutory weighting for them. If not statutory, then spatial plans should be recognised as having been through a public process that identifies constraints and opportunities concerning growth, environmental and economic issues. Spatial planning information that has been through this public process should not be able to be relitigated.

WDC supports the three areas the LGNZ submission has highlighted around a spatial regional planning framework: the first being a lack of horizontal and vertical integration with the resource management system, the second being that the objectives and incentives at different tiers of decision making (central, regional and local government) are often not aligned; and the third being that too much emphasis is placed on making strategies and plans, and on the development and design of resource consents, versus monitoring and maintaining good regulatory outcomes.

WDC would like central government to consider forming an Agile working group or similar with a representative(s) from central, regional and local government. The purpose of this team would be to road test spatial plans and deal with unusual situations that require quick and decisive policy development and change, e.g. natural hazards, significant infrastructure and environmental areas under threat. This Agile working group could also support smaller less-resourced councils, provide collaboration opportunities across sectors and industries and respond to rapidly changing environments.

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

A layered approach is preferred where spatial plans could stay at a national or regional level. At a regional level, spatial planning could replace some current regional policy statements (RPS) provisions of the RMA. WDC believes the current RPS requirements and outcomes are of little value, and the costs of developing an RPS could be better put towards spatial planning. District or city councils experiencing rapid growth could then develop finer-grained development or precinct plans that are consistent with the spatial plans.

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?

WDC agrees that the RMA should address climate change. The RMA in its current form is about mitigating effects of a proposal. If the effects of a proposal correlate with climate change, then alternatives or offset mitigation need consideration. Guidance should stay at a national level, but this needs to be undertaken collaboratively with local government. From a policy and consenting perspective, councils should be able to consider climate change and how this fits in with national directives. Adaptability over time will be crucial to all levels of government. A nationally consistent framework and consistency of process will be critical to climate change mitigation.

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

WDC considers that sufficient climate change adaptation needs identification of natural hazard areas and development of resilient infrastructure. Changes to the RMA need to give local government the ability to make changes to policy and resource consents based on climate change impacts, and this could be a consideration on some applications.
Question 18 - How should the RMA be amended to align with the Climate Change Response Act 2002?

WDC supports the RMA providing a functional aspect of the Climate Change Response Act. WDC considers that this area needs strengthening and appropriate resourcing. Implementation is critical, as is national direction with a consistent system message and responsiveness. Before any amendments to the RMA, these should be tested with local government and implemented with appropriate guidance, resourcing and monitoring.

ISSUE 6 - National direction

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

WDC supports a national direction to create consistency around setting environmental standards and managing urban development. National directions need to be considered and developed in partnership with related organisations, given the requirements for local government to administer them. The processes should be simple, tested and ground-truthed and achievable from a local perspective before they are made operative. National directions should be worked through the appropriate levels of local government with appropriate resourcing. Central government should also fund a national data set for monitoring of any environmental bottom lines that can be shared with local government.

ISSUE 7 - Policy and planning framework

Question 20 - How could the content of plans be improved?

WDC support simplifying the contents of plans and making them easily navigable and consistent throughout the country, enhancing technology over the top of plans to make information more accessible for individuals is desirable. We support more significant linkage and strengthening strategic and spatial plans that support urban planning and areas for protection and environmental management. WDC supports the National Planning Standards approach, but this should not over-specify format or plan content, to ensure a reasonable degree of local autonomy is retained.

Question 21 - How can certainty be improved while ensuring responsiveness?

Most plans and policies are too complicated for the average individual to navigate. Plans and policies could use an interface (dashboard) that simplifies the planning information for laypeople, and this could be developed nationally and given to councils, so it is consistent across the country. The RMA includes a requirement for justification of plan provisions through s32 reporting. This system often fails to deliver the intended outcomes. Some tightening of s32 practice could be a valuable way of kerbing excessive plan provisions, possibly by requiring independent peer review to test the rules. Plan changes and variations need to be processed faster and not relitigate the original plan. This could be linked to monitoring and reporting that shows the need for the plan changes with a full schedule process.

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?
WDC supports an investigation into an appropriate system where council partnered strategic/spatial plans are developed through a hybrid hearing process (no right of appeal). This could then set the direction for local planning initiatives.

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

WDC supports a national direction, guidance and implementation. A consistent monitoring program across all plans would improve the situation. We note that Ministry for Environment (MfE) undertook this role in the early 1990s, and suggest this could be reinstated.

**ISSUE 8 - Consents/approvals**

Question 24 - How could consent processes at the national, regional and district levels be improved to deliver more efficient and effective outcomes while preserving appropriate opportunities for public participation?

WDC supports a better tie in of spatial plans and a national monitoring database. The use of technical information supplied for consenting and Notice of Requirements (NOR) processes could supplement this environmental database of information. Similar projects in an area should be able to make use of this information or build on it. The costs of procuring similar technical information are often prohibitive and can lead to non-compliance.

Question 25 - How might consent processes be better tailored to the scale of environmental risk and impact?

Link back to spatial plans if they identify areas of protection, growth, development and the best sites for critical infrastructure avoiding critical ecological and cultural areas where possible.

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

WDC would like to see government agencies have a Memorandum of Understanding around internal engagement where they respond to designations as one entity before lodgement. Agencies should coordinate their projects and any mitigation before going into the regulatory process with district or city councils, e.g. one government department should not be submitting on another government department’s project. For example, the proposed Auckland Unitary Plan did not allow Council Controlled Organisations including Watercare to submit on the plan but addressed concerns at an officer or management level.

Question 27 - Are changes required for other matters such as the review and variation of consents and conditions?

Simplify the process and make it easier to change resource consents if the effects are minimal or show an improved environmental benefit. Resource consents that are proposed or have been issued within the last 10 years may need a mechanism to review the conditions of consent in the context of climate change effects.

Question 28 - Are changes required for other matters such as the role of certificates of compliance?

WDC has not had any significant issues with certificates of compliances to date but welcomes improvements or consistency across the RM system.
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?

WDC supports a range of economic instruments provided in the RMA, including financial contributions, administration charges, bonds and resource consent rentals for sand, shingle, geothermal energy and coastal space. In the Waikato, the nitrogen cap and trade system designed around water quality in Lake Taupo could have merit and be applied to other ecological areas. WDC notes that the Government’s tax working group identifies scope for further development of tax instruments as a tool for addressing some of the most significant environmental taxes (capital gains tax). However, WDC has had a problematic experience administering transferrable development rights and would caution against expanding that kind of economic instrument.

WDC has concerns that future taxes need to consider technology disruptions with a potential reduction in fuel tax. WDC identifies that road user charges and congestion taxes, and some form of land tax, a land tax that is nominal and easily administered needs further investigation. Future taxes, including green taxes, environmental footprint (natural capital) tax and charges for behaviour change need a full investigation and collaboration with councils. WDC supports behavioural and economic incentives if the panel progresses a Futures Commission identified in the options and issues paper as part of RM Systems review.

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

WDC agrees that the RMA is the appropriate vehicle for the deployment of economic instruments versus ad hoc and siloed policy responses. WDC would like to see clear national direction and guidance on the use of economic instruments. Possible council tools for investigation:

- emissions taxes,
- tradable emissions permits,
- transferrable development rights,
- environmental offsetting, and
- congestion charges.

ISSUE 10 - Allocation

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

WDC support the provision of new resources to assess allocation methods and criteria. WDC considers that these principles need to be developed nationally and applied locally.

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?

WDC supports the role of specific tools in resource allocation such as spatial planning, transferrable rights, tendering or auctioning. Modifying the duration of consents and the basis on which a holder of a resource consent can obtain a renewal is supported. A distinction between these allocations should be considered.
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 for regulatory issues?

WDC would like to see more around the pros and cons of this approach. Separate legislation that has specific tie-ins to the RMA might have some merit, but councils will need to see more detail.

WDC agrees that the system as it currently stands is variable on who gets what allocated and parities can seek to capture a resource and shut down arguments based on their resourcing. Competition for resources will only come under more pressure, particularly around water and coastal marine areas. A constraints mapping approach and spatial planning could reduce the RMA arguments for competing uses. The Sea Change - Hauraki Gulf Marine Spatial Plan is a good example.

A resource consent could still be required to mitigate the effects, but the locations of activities would have already been identified. The allocation would need to consider changes that may occur due to climate change, so review conditions need to be a mechanism in this process.

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?

WDC agrees there has been insufficient monitoring and collection data information in some areas which has led to a less than adequate state of the environment and performance of the resource management system. WDC supports improved capability and resourcing of central and local government as identified. WDC would support a central government led stocktake of the data and consistency of it across local government (data and systems) — consistency of cultural requirements and ecological monitoring, linking them to environmental reporting and planning responses.

WDC acknowledges that it is particularly challenging to monitor urban matters versus regional and some land-based terrestrial areas like conservation covenants. The development of some key indicators to be shared with all local government agencies could improve this process. Local government should still collect and monitor data (general indicators), but investment should be made in national databases that can collate this information (from different systems).

Question 35 - Who should have institutional oversight of these functions?

WDC does not support the suggestion that MfE, Environmental Protection Agency or a new agency or a strengthened independent oversight and reviewer (Parliamentary Commissioner for the Environment to include an audit function) should have institutional oversight. The concern is that this would be adding another layer of bureaucracy to an already unwieldy system. There is concern that these national organisations are one step removed; we would prefer localised agencies district/city and regional versus a national organisation taking over this function. An existing (MfE, EPA) or new national agency could have a high-level overview and start to rationalise some of the data collection into a consistent format for guidance, implementation and policy development.
The information could sit with regional and district councils, but it makes sense to try and check the consistency of information (data) or rationalise it across different systems, formats and types. The agency would work out what local data government have and what are the gaps are, and then a national organisation could then have access to the data for State of the Environment reporting or to use for analysis against other legislation, e.g. Biodiversity Strategy.

ISSUE 12 – Compliance and Monitoring

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

Investments made in law-making, plan-making and consent processes are undermined if the rules and conditions imposed through decision-making are not upheld. The compliance, monitoring and enforcement activities are variable across the country and expensive with uncertain outcomes. Devolution to local government agencies has created a fragmented system, with operational and jurisdictional overlaps.

WDC agrees with how the panel has framed up this question but highlights that this system has occurred due to a lack of oversight and guidance from central government which has not helped these matters. WDC does not support that this should sit with EPA as it would create another layer of complexity to the system. The EPA could pick up some higher profile cases where matters of infringement and non-compliance are significant to help provide consistency. WDC notes that deterrents are not always sufficient, and some consent conditions are poorly drafted. This is best done at a regional and local level, but councils are not required to do an SOE under s35 only a report on the results of the monitoring for plan efficiency and effectiveness.

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

The current system is not working well, but maybe there needs to be better guidance and more consistency across the system, particularly in the data (rules/methods and conditions) collected. A lot of the district and regional plans are different and generate different conditions. Possible guidance/framework on achieving the objectives of plans and policies with national key indicators for each region/district and a few agreed ones which are area-specific may be explored. Guidance is required around consistent conditions (enforceable) nationally with regional and local differences and stored on a database. The threshold at which national organisations can get involved in the compliance should be based on scale or costs associated with the effects.

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

Compliance costs should stay with land or consent owners, leasers of property and companies or businesses. If there is potential for compliance issues, further use of bonds or insurance should be required as part of conditions of consent.

ISSUE 13 - Institutional roles and responsibilities

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?
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The options and issues paper states that major institutional reform is not the focus of this review, indicating no structural changes to central government. WDC supports this approach, making a key focus of the review around implementation and consistency under the current systems rather than wholesale changes to functions, roles or responsibilities. Most councils are continually playing catch-up around legislative changes that are introduced with little guidance and resources and then left to work out how best to implement them.

Question 40 - How could existing institutions and bodies be rationalised or improved?
WDC notes that most district and city councils in the Waikato region are pooling services and making their services consistent. Regional and district councils are undertaking combined decision-making functions where possible. Future Proof is an excellent example of councils collaborating on growth initiatives. Central Government agencies could be more hands-on in their roles in producing new policy and helping to implement it with councils. Connections between central, regional and local government need to be improved.

Question 41 - Are any new institutions or bodies required, and what functions should they have?

The EPA could have an oversight role to guide or alter NPS and NES on a national basis. The EPA could develop a national database that coordinates monitoring information held by local government information (currently in different forms) and feed these back as national targets.

A Water Commission responsible for commissioning and funding water infrastructure may be appropriate to help fund Three Waters across the country. Councils could administer the local operations, but not be forced to fund large infrastructure projects from their rates base.

ISSUE 14 – Reducing complexity

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

The Act itself is now close to three times its original length (80 amendments) and more difficult to interpret than ever. Decision-making processes and practices are time-consuming and costly. Broad-based merits appeals in the Environment Court, particularly in plan reviews have added cost and caused extensive delays. Given these decision-making processes and practices have already gone through an extensive hearing process with evidence, minimising relitigation to substantive matters may improve processing times and outcomes.

The Environment Court does help narrow the issues down, in the appeal process. However, the majority of this could be better dealt through the council hearing process. The panel involved in the hearing processes are generally better connected to the community outcomes than the Environment Court. The Auckland Unitary Plan process (under special legislation) took one step further and eliminated the general right of appeal, with only appeals on points of law. The outcome resulted in a reduced timeframe and the plan becoming operative, with significant cost saving.

WDC supports investigation into a similar hybrid process, which only allows appropriate appeals to plan reviews and plan changes. Appeals would then only be allowed where substantive issues have been identified and are backed by the views of the community. If a more appropriate process could be developed under an amended RMA, this could be applied nationally but it needs to allow sufficient opportunities for community input into the revised process.
The best way to reduce complexity in the current system is to develop a coherent package of reform from the options discussed in this paper. Improved integration between all levels of government and testing of major changes before they are implemented is crucial. The proposed RMA reforms and legislation reviews will need appropriate guidance and implementation measures to significantly improve the RMA processes. This would avoid the historic issues that have plagued the RMA since its inception in 1991.

Question 43 - How can we remove unnecessary detail from the RMA?

One way would be to reduce the complexity of the current system with a coherent package of reform from the options discussed in the discussions paper. The key areas identified within this paper have been around better guidance and implementation of the RMA rather than significant structural changes to the system and its processes. However, the current provisions do generate complexity that has developed over the life of the plan. Another way would be to reduce legalistic aspects of the RMA, which has led to longer resource consent reports to cover all of the legal aspects and plan review and plan changes. Historical evidence indicates that report and assessment requirements have grown since the RMA was introduced, and we have not seen a corresponding improvement in environmental and urban improvements. A third way would be to develop coherent spatial plans and improve linkage to decision making to reduce legal challenges to subsequent decisions.

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

WDC would like investigation into these other pieces of legislation: Building Act, NZ Infrastructure Commission/Te Waihanganga Act, Heritage NZ Pouhere Taonga Act, Crown Minerals Act, Fisheries Act, Marine and Coastal Area (Takutai Moana) Act, Conservation statutes, Environmental Protection Act, Climate Change Response Act.