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To: Resource Management Review Panel
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Subject: Issues and options paper: Transforming the resource management system - opportunities for change
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Tēnā koutou

I tēnei wā o te noho kāinga, tēnei te ki atu, piki te ora, piki te kaha, piki te māramatanga ki a koutou, oti rā ki a tātou katoa. Ki a rātou kua wehe atu ki te pō, e moe. Ki a tātou te hunga ora, tēnā tātou. Tēnei rā te mihi ki a koutou e āta whakaaro nei mō ngā āhuatanga e tiaki nei i tō tātou taiao. Mō koutou e āha pai nei i tēnei kaupapa nui, tēnā koutou.

Ngā Waihua o Paerangi Trust is the authority for Ngāti Rangi, an iwi based on the southern slopes of Matua te Mana, or Ruapehu. Our cultural identity is linked to his essence, the lifeblood of our people cascade as waters from his slopes, his peaks above are our sacred altar. The vision statement for Ngāti Rangi is kia mura ai te ora o Ngāti Rangi nui tonu ki tua o te 1,000 tau. Ngāti Rangi continues to vibrantly exist in 1,000 years.

Ngāti Rangi are cautiously supportive of some aspects of this reform, as there is a general theme of preventing further degradation of the environment. However, we are waiting to view detailed proposals in the next phase, and will provide more feedback at that time. You will note from our kōrero below that there are some aspects that Ngāti Rangi does not support. We would welcome the opportunity to discuss the reforms with you face to face (albeit via Zoom or similar), as was the original intention, in the near future.

Overall, it is important to us that this reform results in better legislation and an improvement of our current system and that the changes are carried out reasonably, honourably, and in good faith of our partnership with the Crown.
ISSUES AND OPTIONS

Legislative architecture (Issue 1)
Ngāti Rangi do not support the proposal to move to separate legislation for dealing with ‘environmental management’ and land use. We consider that this has the potential to create a system that fails to adequately protect the environment as whole, and that it would leave natural elements in the built environment open to much greater levels of degradation. For example, many of the streams in the built environment are piped and run underground. These are, however, still both habitat in themselves and links between open areas of stream that also provide habitat. It is our contention that they must continue to be treated as streams, and be subject to the same protection afforded to a stream in a ‘non-built’ environment. Separate legislation is unlikely to afford such protection to urban streams. We strongly believe that both the built and non-built environments need to be managed under the same legislation, and held to the same standards.

Purpose and principles of the Resource Management Act 1991 (Issue 2)
Ngāti Rangi are open to considering further, detailed proposals on changes to Part 2 of the Act. Currently, we consider that Part 2 does not adequately reflect the principles of Te Tiriti o Waitangi, and that environmental protection is not far-reaching enough.

However, we are concerned about the impact that changes might have on established case law. Keeping the same key terms (such as ‘recognise and provide’) is crucial for upholding interpretation that has been tried and tested through case law, and for maintaining much-needed environmental protection. Therefore, we contend that any proposed changes need to maintain the nearly 30 years of case law that has built up since the RMA was passed in 1991, and to use words that have clear interpretation through that case law. We will comment on the detailed proposals once they are notified, and determine the extent of our support, or otherwise, at that point.

Ngāti Rangi see this reform as an opportunity to better reflect the Māori worldview with regards to looking after the environment. One avenue to achieve this would be to move kaitiakitanga up into s 6, so that its status is elevated to a matter of national importance. The wording ‘recognise and provide for’ needs to remain the same in s 6. [Please note: although Ngāti Rangi do not use the word kaitiakitanga in the context of resource management, given its widespread use by other iwi and its generally accepted meaning within planning circles, Ngāti Rangi are comfortable with this term being included in the Act and believe it will align with our philosophies.]

Ngāti Rangi strongly support the inclusion of Te Mana o te Wai in Part 2 of the Act. Specifically, Ngāti Rangi supports the inclusion of Te Mana o te Wai as defined in clause 1.5 of the Draft National Policy Statement for Freshwater Management released in September of 2019. This definition reflects Ngāti Rangi’s approach to caring for our waterbodies, and we consider that it provides the framework of protection that waters in Aotearoa need. Inclusion of Te Mana o te Wai in Part 2 of the RMA will further strengthen the application of this important framework throughout New Zealand’s resource management system.

We also see this as an important step in New Zealand’s maturity as a nation. When fundamental concepts such as Te Mana o te Wai are used in legislation, it signals a move towards a Treaty partnership approach to resource management. In this case, Māori worldviews become more than just a matter of cultural consideration in plans and consent decisions, to aspects that underpin the very values driving decisions. We see this as a great step forward and fully support this move.
Recognising Te Tiriti o Waitangi / the Treaty of Waitangi and te ao Māori (Issue 3)
The RMA has not sufficiently provided recognition and protection of Māori interests in resource management. Ngāti Rangi agree with the Waitangi Tribunal; the RMA has failed to deliver partnership outcomes even though we have mechanisms in place to do so. Planning requires a balancing act and in this case Māori interests need to be given more weight. The Act needs to better reflect the principles of Te Tiriti o Waitangi, and, in particular, partnership. This means that Te Tiriti o Waitangi needs to be moved up from Section 8 and into Section 6, so the principles of Te Tiriti o Waitangi are a matter of national importance that need to be ‘recognised and provided for’.

Strategic integration across the resource management system (Issue 4)
Ngāti Rangi can see the potential value in strategic spatial planning, in that it allows for better integration across New Zealand and can help provide certainty over what things are going to happen, where, over time. Potentially, strategic spatial planning could be used to better implement fundamental approaches such as mai uta ki tai (known as ki uta ki tai to other iwi) and ensure that there is integrated catchment management across all of New Zealand’s waterways.

Our concern, however, lies in the tension between the local voice and authority held by hapū and iwi, and decisions imposed at a national level. This is particularly relevant given the Crown has just completed a settlement with Ngāti Rangi that involves co-management of the Whangaehu catchment. We would not want to see strategic spatial planning attempt to override our settlement, or our mana connected to our local places.

Should strategic spatial planning be implemented, Ngāti Rangi would like considerable involvement in the design and drafting of the spatial planning in our area. This would reflect our connection to this rohe, our knowledge of this rohe, our environmental values for this rohe, our responsibility to protect sites of significance within our rohe, as well as the spirit of our recent settlement – ie, “Where the Crown goes, so goes Ngāti Rangi”. At a more general level, we contend that, should strategic spatial planning go ahead, iwi and hapū across Aotearoa would need to be resourced to participate in the process.

We also consider that the spatial arrangement would need to adequately reflect environmental needs and take into account overall resource allocation – more specifically, water allocation. We think that managing and directing land use through spatial planning needs to take into account over-allocation of water. Spatial planning needs to resolve capacity issues, as well as finding ways to resolve over-allocation; for example, avoiding development where over-allocation has occurred because this would result in more people using more water. That is, spatial planning would need to be done using Te Mana o te Wai as its lens.

Addressing climate change and natural hazards (Issue 5)
Ngāti Rangi strongly supports the inclusion of provisions to manage the effects of climate change under the Act. Mitigation and adaptation tools need to be included in the Resource Management Act to ensure climate change impacts can be included in the decision-making process. This would allow consenting authorities to consider the effects of climate change, such as emissions from individual activities (like concrete production, for example) when deciding on a resource consent. It will also give councils the ability to consider mitigation measures to be carried out (such as lowering concrete production emission at source by using technology). Adaptation measures can also be included in spatial plans under the RMA, for example, by creating corridors of vegetation, so when conditions change wildlife can transition to more suitable habitats. Addressing climate change under the RMA can also help address future potential issues with wai. For example, designing flow levels to adapt to potential future effects of climate change, such as temperature increases, habitat loss and higher
nutrient concentration levels due to reduced flows. Looking after and providing for wai is vital to the health and well-being of Ngāti Rangi.

Ngāti Rangi consider that climate change is of such importance that it should be deemed a matter of national importance. As such, it needs to be elevated from Section 7 up into Section 6.

National direction (Issue 6)
The Ministry for the Environment have asked whether the ability of central government to set environmental standards should be increased, and whether there should be more national direction around environmental bottom lines. Ngāti Rangi is supportive of this, and believe that central government could be more directive and make better use of national environmental statements and national policy statements to set minimum environmental standards across Aotearoa. This would create greater consistency across councils, and, we believe, result in better environmental outcomes. However, iwi and hapū still need to have meaningful input into national environmental standards, as well as opportunities to engage at the local authority level to help set standards that capture the specific needs of their communities and the environment. Overall, however, we strongly support the use of robust national environmental standards.

Your Issues and Options paper mentions the possibility of the RMA requiring a national policy statement to be created for the Treaty. Ngāti Rangi support the requirement of a mandatory NPS for the Treaty and consider it offers the opportunity to bring greater consistency across councils, drive councils toward better partnership practices, and provide much better embodiment of the Treaty’s intentions in general. We look forward to the development of this NPS.

Policy and planning framework (Issue 7)
Ngāti Rangi agree with the Productivity Commission: “A particular gap in national direction identified by the Productivity Commission is how councils should put provisions relating to the Treaty into practice.” As a principle, Ngāti Rangi considers that iwi should be involved in plan making processes at a high level, early in the piece, and as Treaty partners. This approach goes far beyond the ‘notified stakeholder’ position currently afforded to iwi in plan-making and plan-changing processes. For Ngāti Rangi, we envisage this would take the form of setting a driving vision and philosophy for the plan. The plan itself would then be developed by council staff, with iterative input from iwi during the process. We prefer this approach because, currently, council have the human resources and the finances to undertake plan development work, whereas we do not, but setting the overall vision allows us to ensure that the plan aligns with our positions and philosophies, and our role as tangata tiaki. This approach is reflected in our Treaty settlement, whereby we will collaboratively develop a catchment strategy for our tupuna awa, the Whangaehu, which must then be recognised and provided for through any plan preparations, variations or amendments in our region. Other iwi may envisage a different approach – that is for them to discuss.

Ngāti Rangi support central government approving draft plans before they are notified. We consider that this is likely to bring greater quality and consistency to plans across Aotearoa, and reduce time and effort for iwi and hapū in fighting poorly-designed plans. We also like the idea of central mechanisms to support plan-making to help improve integration and pan quality, and to help ensure that there are no holes or errors that have to be addressed during the hearings process. This approach, coupled with substantial iwi and hapū input in the vision-setting and design phase, will, we believe, produce higher quality plans that better reflect both the Māori worldview and our status as a nation founded on the Treaty partnership.
Ngāti Rangi do not support a single-stage plan making process. This would restrict the rights of appeal and remove important checks and balances from the current system. Ngāti Rangi is not against the idea of an Independent Hearings Panel (IHP), however the current schedule one process needs to remain to allow for valuable iwi, hapū and public input. If a single stage process was going to occur, there would need to be more time available for iwi to be able to sufficiently prepare for this, as well as funding for iwi and hapū to access the necessary technical advice.

Ngāti Rangi support giving greater status to iwi management plans. Rather than having ‘particular regard to’ iwi management plans, we prefer that the weighting be raised so they must be ‘given effect to’.

Consents/approvals (Issue 8)
Ngāti Rangi considers that a more efficient system of engaging with hapū and iwi about resource consents would be for Council to provide regular updates of both upcoming and newly lodged consents. There are various options for approaching this, some of which already occur at different councils around Aotearoa. Councils could provide a weekly or monthly update on new and upcoming consents. Councils could provide a shared document that lists new and pending applications (sorting by date would allow hapū and iwi to view only the most recent applications). Or Councils could create portals that allow iwi and hapū to see portions of their internal systems relating to consents. Obviously, for some consents that are in discussion but yet to be lodged, there would need to be agreement around commercial sensitivity and confidentiality, but these are matters that can be easily worked out. Providing information on upcoming consents allows the applicant and hapū and iwi to enter into early discussions, which often helps iron out any issues at the design phase, when changes are less expensive. This is a more satisfactory process for all the parties.

Currently, iwi and hapū do not have the power to trigger a review of a consent or its conditions. This is frustrating for iwi and hapū on the ground, who are often in a position to observe impacts locally that may be missed by the monitoring required by the consent conditions. As Ngāti Rangi, we are reliant on Councils triggering reviews, and our experience is that they are reluctant to do this. While we understand the need to protect consent holders from petty reviews triggered simply because one group or another objects to an activity or a consent application outcome, we also consider that the balance currently lies too far with council, and not enough with hapū, iwi and the public. We suggest that, with a sufficiently high bar (for example provision of evidence of effects), groups other than council ought to be able to trigger consent reviews, and that this should be reflected in the RM reforms.

Economic instruments (Issue 9)
Ngāti Rangi considers there may be some benefits to some particular economic instruments. However, we are concerned that:

- the introduction of some instruments (eg, resource use rentals) may result in default ownership being assigned to the Crown, overlooking iwi rights and interests;
- revenue from fees and fines may be taken into a consolidated pool and not adequately used for environmental enhancement;
- inequalities in access to resources may result from some instruments (eg, those with capital available are able to pay resource rentals, and therefore access resources while those without, can’t);
- polluters may choose to pay the fines rather than to change behaviour.
We would like time to consider economic instruments in detail and discuss these further.

**Allocation (Issue 10)**

Ngāti Rangi do not approve of the current ‘first in, first served’ principle when allocating resources. The current system does not provide for iwi and hapū values and interests, fails to protect the environment, and has resulted in inequalities. Iwi across Aotearoa have long been advocating for an allocation system that has as its first principle the protection of the needs of nature, a true recognition of Māori rights and interests, and lastly, once these aspects have been resolved, allocation for economic uses. Successive Governments have pushed resolution of allocation issues further and further down the track, despite lengthy discussions between ministers and iwi leaders, officials and iwi technicians, and an MfE work programme dedicated to the issue.

Allocation is an urgent matter that needs urgent resolution. And it needs to be a fair allocation that recognises Māori rights and interests.

With regards to water takes and discharges, any new framework needs to put the health of wai first. Ngāti Rangi fully support the use of Te Mana o te Wai as a framework for making decisions about water allocation.

The current approach to addressing over-allocation is by way of consent renewal. Water access rights currently extend over long periods of time. Ngāti Rangi have consistently advocated for consent terms to be limited to 15 years or less. In the context of water allocation, this would allow for environmental and technical advancements to be taken into account when deciding on consent renewals. We consider that, should longer consents continue to be granted, regular reviews of conditions need to occur in order to ensure fair allocation to the waterbodies themselves, to iwi, and across the community. Signalling to consent holders that regular reviews will occur, with the real possibility of a reduction of water allocation at those reviews, would help consent holders plan for future changes and, hopefully, increase the efficiency of their water use.

The Ministry has proposed that greater power could be given to consent authorities to vary or cancel a consent. Ngāti Rangi is supportive of this proposal. In particular, we believe that the option to cancel a consent due to non-compliance would provide a powerful tool for councils, and a strong incentive for consent holders to treat consents seriously.

**System monitoring and oversight (Issue 11)**

We do consider that it would be helpful if the Ministry for the Environment undertook more direct monitoring of the resource management system. In particular, reviewing decisions on what levels of notification are applied to consents, checking council performance in Treaty relationships, and checking for political interference in council decisions, plan development or consent decisions would be useful.

**Compliance, monitoring and enforcement (Issue 12)**

Councils need greater resourcing to monitor and enforce compliance. Our experience is that the monitoring and enforcement of consents could be strengthened, and we see this as an area of weakness in the system.

Supply of live data publicly would provide greater accountability for compliance by consent-holders, and allow iwi members locally who notice oddities in their streams or areas to check in real-time, rather than having to wait until data is supplied to council or compliance staff are able to visit the area.
Your Issues and Options document includes the question: “Who should bear the cost of carrying out compliance services?”. We consider that the cost of compliance monitoring should be based on the ‘user pays’ principle. The tax payer should not wear the cost of other people’s compliance matters.

**Institutional roles and responsibilities (Issue 13)**
Ngāti Rangi agree that many changes are needed to ensure that the Treaty and the relationship between the Crown and Māori is recognised, to protect and promote Māori interests. Ngāti Rangi support the concept of establishing a Māori Advisory Board on Planning and the Treaty to provide independent oversight throughout the system. In fact, we consider that this board should go beyond a mere ‘advisory’ role, and should have the power to compel remedies where they are needed.

**Reducing complexity (Issue 14)**
Your final question welcomes input about reducing complexity throughout the resource management system. The best way to understand how to reduce complexity in the current system is to find out whether it is due to poor practice, or poor implementation. The first step is to find the core problem and then look at the ways to improve it. An element of the complexity is a result of the democratic process, but if these democratic processes are removed iwi lose the opportunities to be heard. This needs careful consideration when making any changes.

Ngā mihi nui, nā

§ 9(2)(a)