



PAPA POUNAMU

A Submission on the Comprehensive Review of the Resource Management System and Draft Terms of Reference Resource Management Review Panel

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September 2019

SUBMISSION ON THE COMPREHENSIVE REVIEW OF THE RESOURCE MANAGEMENT SYSTEM AND DRAFT TERMS OF REFERENCE RESOURCE MANAGEMENT REVIEW PANEL

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Tēnā koe e Simon,

Thank you for our recent conversations about the comprehensive review of the resource management (RM) system and the opportunity to provide a submission on the terms of reference for the review. Ngā mihi me ngā manaakitanga ki koe i tēnei, te wiki o te reo Māori.

Papa Pounamu

Papa Pounamu represents a network of kaitiaki and planning practitioners working in the areas of resource management and environmental matters. Our focus is to ensure the integrity of mātauranga Māori, and that cultural values is appropriately and respectfully captured and integrated into resource management planning and decision-making. Additionally, Papa Pounamu is a technical interest group of the New Zealand Planning Institute (NZPI) and we regularly participate in discussions at governance, advisory group and branch levels.

As with the RM reforms, Papa Pounamu is also entering a period of transition with the appointment of a new kōmiti (committee) whakahaere. The kōmiti is comprised of seven members. Jade Wikaira has been appointed Chairperson and James Whetu has been appointed Deputy Chairperson. Profiles of Papa Pounamu kōmiti members are attached at the end of this letter.

Structure of Feedback

This letter provides feedback on the draft Terms of Reference Resource Management Review Panel. It should not be regarded as replacement or in lieu of consultation or engagement with iwi, hapū and whānau Māori. We understand that this direct consultation and engagement is currently occurring throughout and across the country.

Feedback responds to the Cabinet paper *‘Comprehensive review of the resource management system: scope and process’* and *‘Draft Terms of Reference Resource Management Review Panel’*. We agree that developing new resource management legislation will be a complex undertaking. We also agree that policy development needs to be informed by expertise and experience in dealing with the Resource Management Act 1991 (RMA), specifically as it is applied in Māori cultural settings and with iwi, hapū and whānau. Papa Pounamu is keen to be formally involved in the review, especially in the development, design and delivery of policy proposals for reform of the RMA as described under paragraph 15 of the Cabinet paper.

The structure of this submission is as follows:

- General comments – general observations of the RM system as planners and resource management practitioners in iwi, hapū, private and local government settings;
- Specific comments – on the draft Terms of Reference; and
- Direct involvement in the RM reforms.

General Comments

Papa Pounamu supports the direction of the review including that iwi, hapū and whānau are engaged from the outset. Further comments:

- **Critical Reflection:** The resource management system and the RMA are critically important to Māori. The comprehensive review needs to focus on solutions to the points Māori have made in relation to deficiencies in the current system.
 - How has the RMA provided for the cultural and spiritual aspirations of Māori in the environment?
 - How has the RMA delivered in terms of the outcomes Māori are seeking in resource management practice?
 - What are the lessons? What has worked in practice and what can we do that is different?
 - How can the RM review provide for systems change?
 - What are the principles of this review that will be used to inform the development of policy proposals?
- **A shift in language to enable partnership:** The review provides opportunity to shift the language to enable partnership in a way that Māori recognise, understand and acknowledge as meeting their needs.
- **An integrated approach to Treaty principles:** The review provides a platform to talk about better integration over and above section 8 and explore opportunities and relationships with other legislation i.e. Heritage New Zealand Pouhere Taonga Act 2014.
- **Behavioural Change in Planning Practice:** Māori comment on the lack of cultural and spiritual appreciation of our world view, and capability of planners and consent officers in understanding tikanga, Te Tiriti o Waitangi and te reo Māori. The RM review needs to respond to these comments to enable better outcomes for iwi.
- **Guidance material:** Māori often comment that the Treaty and matters of importance to tangata whenua are not given sufficient weight under the RMA. The Quality Planning resource provides guidance for planners and local government officials in planning practice. Relevant guidance material could be developed with better input from Māori in the RM review:
 - What further guidance material should be developed (for planners) that demonstrate an understanding of Māori world views, and how values have been incorporated and integrated in planning?
 - Initiate a pilot as to how such guidance notes are implemented in practice at local government level.

Specific Comments - Draft Terms of Reference

Approach to the review (paragraphs 6–9)

- The RMA has been in place for nearly 30 years with specific case law interpretations for Part Two. Review should **include** assessment of wider range of options (including those that depart from the status quo).
- Māori want to discuss land use regulation and environmental protection. The review should be founded with a focus on Treaty partnership.

Primary focus is the RMA

- Paragraph 11 – Papa Pounamu **agrees** with scope of review and that it should prioritise a high-level framework for an improved resource management system. **Recommendation** that central to this framework are principles that capture a Māori perspective too.

Spatial planning between the RMA, the LGA and the LTMA (paragraphs 13– 15)

- Spatial planning is a tool that essentially is about 'place shaping and delivery'. It is a tool for collaboration between the key decision-makers and focussed on the long-term development of cities and regions in improving investment certainty. In planning, one of the key issues for Māori is lack of capacity to be across the complex, multi-layered and often technical requirements demanding their attention and interaction. Spatial planning is potentially a tool to assist in this regard, and enable early and high level involvement from our cultural and spiritual perspectives.
- Papa Pounamu **recommends** Māori principles should provide a foundation for the context of spatial planning in resource management in these reforms. Given Treaty partnerships in this space and the proposal for spatial

planning to provide a nexus across key local government, transport, infrastructure, housing and urban development, it is vital that Māori contribute to the shaping and delivery of these policy directions.

Other reviews and legislation within the resource management system (paragraph 16-17)

- Noting the scope of the review in paragraph 19, Papa Pounamu considers that this review should consider the potential impact of and alignment with government programmes to improve the relationship (ability to engage, develop policy outcomes and deliver) between local government and Māori (iwi, hapū, whānau Māori).

Roles of institutions (paragraph 18)

- **Consider** the roles of Post Settlement Governance Entities (PSGE) and iwi authorities in relation to delegated functions such as with joint management agreements and transfers of power. This would enable PSGE to set up their own tikanga and kaupapa-based approaches to deliver their delegations against (for example a joint management or section 33 agreement).
- **Consider** whether all entities with delegated functions (such as PSGE) should be included in Council funding processes (such as Long-Term Plans or Annual Plans) with support for funding, capacity building, incentives and capability building.

Changes to scope (paragraph 20)

- **Add** Papa Pounamu to list of groups to be engaged over the life of the RM review.

Review Deliverables

Final Report (paragraphs 21-24)

- The primary deliverable and report should have a **focussed Māori section** describing how the aspirations of Māori (iwi, hapū, whānau) are to be approached, **and** it should be informed by reports on what is currently not working for Maori in the resource management system, and identify any forthcoming opportunities.

Issues and Options Paper (paragraphs 25-27)

- This paper should reflect on the current resource management system and highlight issues that Māori have been raising. Further to this, the paper should describe a **strategy and action plan** for lifting the quality of planning and resource management outcomes for Māori. These could include:
 - Cultural Capability of Planners and other RM practitioners at Central and local government levels
 - Providing for cultural safety i.e. maintaining the integrity of mātauranga Maori, and the respectful and appropriate integration into resource management and local government processes;
 - Lack of access in RM and a discussion about racism and discrimination and the system;
 - What guidance material is available to provide for better outcomes for Māori, and identify opportunities for peer reviews;
 - The delivery of technical information;
 - Why existing instruments are not being used (JMA, s33);
 - How to strengthen the capability and capacity of the planning and RM practitioners' workforce to respond to the aspirations and diversity of Māori (iwi, hapū and whanau and *wellbeings*);
 - How to support established entities (iwi authorities, post-settlement governance entities, mandated iwi organisations).

Roles and Responsibilities

Resource Management Review Panel (paragraph 31-34)

- Māori as tangata whenua/mana whenua participate across a spectrum of resource management frameworks and systems that often operate in isolation of each other. It is in this manner and the concerted efforts performed by Māori in resource management that, for effectiveness, the review panel needs to have membership that are familiar with the breadth of the system rather than experts working with one part of the system eg RMA or resource consents.
- Similar to above, the resource management system is not singular, it is a layer of systems or an interaction of systems. As a bare minimum, members with expertise/experience in frameworks and implementation of all four Acts (RMA, Local Government Act, Land Transport Management Act, Climate Change Response Act, and Heritage

New Zealand Pouhere Taonga Act) should be sought. Additionally, it is suggested that Māori expertise in each field (planning, science, law, and economics) are in addition to the Te Ao Māori expertise.

Resource Management Review Panel Chair

- The Panel Chair should demonstrate an ability and comfort with tikanga Māori.
- Paragraph 38 - In addition, the Chair should also have the responsibility to uphold tikanga Māori.
- Paragraph 39 - The subgroup members will be remunerated appropriately for their time and input.

Direct Involvement in the Review

Papa Pounamu are available to be formally involved in the RM review. All members of the kōmiti whakahaere represent their own Papa Pounamu branches that have been established to support and encourage whanaungatanga in resource management and environmental planning across the country. We regularly keep our members and whānau updated on relevant kaupapa.

We do not purport to represent iwi, hapū and whānau Māori. However, we all play active roles as Māori and Pacific planning practitioners in our own respective iwi, hapū and whānau and understand the pressure many are under to participate meaningfully in those reviews. Our members have told us they are involved at a national level in responding to:

- Initial discussions on Wai 262
- Minerals and Petroleum Resource Strategy for Aotearoa New Zealand 2019-2029
- Discussion document on the Review of the Crown Minerals Act 1991 (CMA)
- National Policy Statement on Urban Development
- National Policy Statement for Highly Productive Land
- Essential Freshwater package
- Proposal for New Zealand's next biodiversity strategy
- Conservation General Policy and General Policy for National Parks Partial Reviews
- Action for Healthy Waterways