

SUBMISSION

TRANSFORMING THE

RESOURCE MANAGEMENT

SYSTEM: OPPORTUNITIES FOR

CHANGE

Engineering New Zealand (formerly IPENZ) is New Zealand's professional home for engineers. We are New Zealand's strongest and most influential voice on engineering issues, with more than 22,000 members who want to help shape the public policy agenda and engineer better lives for New Zealanders.

Thank you for the opportunity to provide comment on the Resource Management Review Panel's document *Transforming the resource management system: opportunities for change* (the issues and options paper).

We are following the work of the Resource Management Review Panel with anticipation. At the time of the Resource Management Act 1991 (the RMA)'s introduction, the system it initiated was world leading. However, as the issues and options paper outlines, over time the system introduced by the RMA has struggled to appropriately manage our resources and has been cumbersome to interpret and challenging to manage through the complex accountability arrangements in place. The issues and options paper highlights capacity concerns across the system and we have seen these and worked within constraints. We have also worked across the layers of the system and experienced the inconsistent standards, diverse interpretations and fragmented leadership. We are troubled to see the resulting decline in our natural environment, as well as the undue restraints to development.

WE SUPPORT THE DIRECTION OF THE PANEL

Overall, we agree with the direction the Panel is taking and consider that most of the issues identified in the paper are the ones that need to be addressed in the advice the Panel gives to the Government. We are hopeful that the advice of the Panel will drive change in the resource management system.

WE DO NOT SUPPORT SEPARATE LEGISLATIVE ARCHITECTURE (ISSUE 1)

The paper asks whether the legislative architecture of the resource management system should be separated into environmental management legislation and land use planning for development legislation. We do not support separate legislative regimes. Before the RMA, environmental management and land use planning were separate. This created an incredibly complex arrangement of legislation. We consider a return to fragmentation to be a step backwards and that this action would not support appropriate management of outcomes.

WE SUPPORT CHANGES TO SECTIONS 6 AND 7 (ISSUE 2)

In 2009, a technical advisory group reported to the then Minister for the Environment on recommendations for improving processes under the RMA. At that time, the group considered whether sections 6 and 7 of the RMA should be changed from the rather “hotch-potch collection of sentiments directed at ‘environmental’ issues” to include economic, cultural and social questions. The advisory group considered the case for change but recommended that no changes be made at the time without further extensive consultation, as changes to sections 6 and 7 of the RMA may further complicate the intent of the RMA, as well as its implementation. We recommend the Panel consider the process undertaken by the technical advisory group in its consideration of changing sections 6 and 7.

We consider there is opportunity in Part 2 to outline principles for development issues, particularly housing and urban development. We consider environmental bottom lines are very important, but also consider the RMA needs to provide greater acknowledgement of the need to enable ongoing development.

Finally, in considering other opportunities for changes to the purpose and principles in Part 2 of the RMA (question 8 under Issue 2), we consider there is opportunity for the purpose and principles in the RMA to reflect society’s need for infrastructure that will be long-term. In practice, engineers are experiencing challenges obtaining consents for infrastructure with 35-year maximum terms as this requires changing natural resource allocation. However, for the growth, development and resilience of our country we need to consider allocation for long-term infrastructure resilience. We feel this is a critical consideration for the Panel.

WE SUPPORT INCREASED RECOGNITION OF TE TIRITI O WAITANGI AND TE AO MĀORI (ISSUE 3)

We strongly support the Panel’s consideration of increased recognition of te Tiriti o Waitangi and Te Ao Māori, as well as the Panel’s recognition of te Mana o te Wai. We also support, in principle, an introduction of a hierarchy in sections 6 and 7 (see comment on Issue 6 below).

WE HAVE SOME IDEAS ABOUT SPATIAL PLANS AND THE NEED FOR BETTER STRATEGIC INTEGRATION OF PLANNING (ISSUE 4)

The proposed spatial plans add an additional layer to the already complex planning and accountability arrangements existing under the RMA. If the Panel is to recommend a requirement for spatial plans, we consider the purpose and content of these plans need to be clearly defined and the relationship between these plans and other planning documents under the RMA clearly articulated.

In practice, the integration of planning and operations across local, regional and Central Government is disjointed and ineffective. This is because there is a separation between planning and operational timeframes across local and regional authorities and those of Central Government. When working locally, it is extremely difficult to achieve national commitment or direction on those things controlled by Central

Government (for example, national infrastructure or the building of schools and hospitals). Accountability is split for the delivery of key services and this leads to a disconnect between what local and regional authorities can *plan* to do and what they can *deliver* for their jurisdictions. The review of the RMA provides opportunity to address some of the drivers of this disconnect. We would welcome the opportunity to discuss this further with the Panel or those in Government.

WE CONSIDER ADDRESSING CLIMATE CHANGE THROUGH THE RMA IS COMPLICATED AND REQUIRES SUPPORT (ISSUE 5)

Engineering New Zealand supports the Government's work towards carbon neutrality and responding to climate change. However, we have apprehensions about the Panel's proposal that the RMA be used as a significant vehicle in climate change mitigation. We have observed regulators struggling, in practice, to understand the effects of the 2004 changes to Part 2, section 7 of the RMA.

We consider there is a place for the consideration of emissions to be integrated into legislation about the protection of land use in the long-term. However, many climate-change related issues are outside the remit of the RMA. To implement climate change mitigation through the RMA requires significant guidance, training and leadership. It would also require funding. We recommend that if the Panel proceeds in its consideration of further using the RMA as a significant vehicle for climate change mitigation, a national policy statement (NPS) or national environmental standard (NES) be rolled out in tandem with changes to legislation, as this would support consistent planning and decision-making across New Zealand.

SHOULD HIERARCHY BE INTRODUCED, WE CONSIDER AN ADDITIONAL NPS AND NES IS REQUIRED (ISSUE 6)

As signalled above, in principle we support the introduction of a hierarchy (this has also been signalled for addition to the National Policy Statement for Freshwater Management). However, to date there is no evidence that guidance is being produced to support the implementation of the hierarchy. Without clear guidance, implementation across New Zealand will be inconsistent and outcomes variable. We consider that if the Panel proceeds to recommend the introduction of the hierarchy, clear requirements be highlighted in section 6 and 7 of the RMA, and national guidance (NPS and NES) be rolled out in tandem to legislative changes. National guidance will need to consider potential conflict between documents (for example, conflicts between the NPS Urban Development Capacity and NPS Freshwater).

WE WELCOME WORK ON THE PLANNING AND POLICY FRAMEWORK WORK (ISSUE 7)

From an engineering perspective, the planning and policy framework applied across the country needs to be further streamlined. Streamlining the policy and planning framework would provide consistency, particularly for common design and construction aspects that each council sets its own standards for. Some examples of this include provisions for network utilities, parking space dimensions and the approach for maintaining roads (for example, some councils apply the adjacent land zone to the road centre line, some apply a road zone, some designate their network).

As we have indicated, there is a significant discord between planning and practice. The ineffectiveness of the planning and policy framework is wasteful. Plans need to be grounded in good practice and it is our hope that this review of the RMA will lead to a fit-for-purpose planning and policy framework. To develop such a framework requires consideration of real-world infrastructure and engineering examples, as well as case studies. It is our experience that regional plans can put in place barriers for the consenting of infrastructure. We would welcome further discussion on this and are available to support the Panel.

WE CONSIDER THERE ARE OPPORTUNITIES FOR FURTHER COLLABORATION IN CONSENT AND APPROVAL PROCESSES (ISSUE 8)

The Panel have asked how consent processes at the national, regional and district levels could be improved to deliver more efficient and effective outcomes, while preserving appropriate opportunities for public participation. As engineers working in the system, there is little education on the consents and approvals processes before they enter the work force. This inadvertently leads to a poor view of the planning process, risk aversion and poor decision making. We consider there is opportunities across the system to improve the understanding of the engineers working through consent processes.

Clear guidance and prescription have a place, however education by employers, professional bodies and councils would also support those engineers working within the system, particularly new graduates.

Engineering New Zealand is working to consider its role in this area.

Designations

Designations under the RMA allow for the future use of land for specific projects or public works to be signalled in district plans by network utilities and government bodies. Engineering New Zealand supports the continued use and development of designations. We consider there is opportunity to support the expansion of the use of designations under the RMA. There are opportunities for the RMA to be amended to enable designations to include land designation for climate change adaptations and mitigations, as well as to enable comprehensive developments, among others.

WE CONSIDER ALLOCATIONS SHOULD NOT BE ‘FIRST COME FIRST SERVED’ (ISSUE 10)

The focus of the RMA is resource allocation. One of the problems we see with this is that the approach taken under the RMA is often a ‘first come, first served’ approach, particularly with water. This means that resource use planning in a catchment area is limited to what consents expire at what times and what applications are being considered. This is at odds with the principles of the RMA. In answer to the panel’s question 33 about whether the allocation of resources such as water and coastal marine space should be dealt with under the RMA or elsewhere, we consider the appropriate place allocation is under the RMA. To this regard, we support work to improve allocation planning.

CONCLUSION

In conclusion, we appreciate the opportunity to provide comment on the Resource Management Review Panel’s work to date. We look forward to the advice the Panel provides and are hopeful for on-going improvement in the system. We value an opportunity to be involved in the conversation. If we can be of additional support, please do not hesitate to contact Jodi Caughley, Policy and Projects Lead at Engineering New Zealand (jodi.caughley@engineeringnz.org).

As highlighted in the introduction of this submission, we have deep concerns about the constraints faced by the resource management system. In addition to the challenges of working under the current RMA framework, it is our opinion that there is a significant lack of resourcing across the system to implement strong resource management. This is compounded by a lack of appropriate resourcing and skill within local and regional councils. While we recognise the scope of the Review Panel is the structure of the legislative framework, we consider the issues and options identified in the paper by the Panel cannot be fully addressed without considering the resourcing of the system and what can be practicably achieved within the constraints that exist.