

**Name of submitter/organisation: Independent Māori Statutory Board**

**Contact details**

**Name: Brandi Hudson**

**Address: Private Bag 92311, Auckland 1142**

**Telephone: 09 9776087**

**Email: brandi.hudson@imsb.māori.nz**

**Independent Māori Statutory Board: Submission to  
“Transforming the Resource Management System –  
Opportunities for Change”**

**The Purpose and Functions of the Independent Māori Statutory Board**

The establishment of the Independent Māori Statutory Board in 2010 was a key development in the local government reforms that created the largest council in Aotearoa, the Auckland Council (“Council”).

The Board has a statutory purpose and role to assist Council to make decisions, perform functions, and exercise powers by monitoring Council against its Treaty of Waitangi obligations, and promoting Issues of Significance to Māori in Tāmaki Makaurau (Auckland).

The Board promotes, tracks progress and reports on the Māori Plan for Tāmaki Makaurau. The Māori Plan is representative of Māori in the region and what they have identified as important to them. It provides a framework for understanding Māori values, development aspirations and monitoring progress towards cultural, economic, environmental and social outcomes.

The Board achieves its purpose and functions through:

- undertaking its own consultation and research; and using the Māori Plan and Māori Reports as an evidence base;
- using its prioritised Issues of Significance for Māori as a focus for its strategic direction and advocacy;
- its membership and decision-making on Council committees, hearings, workshops, Council Controlled Organisation appointment panels and other political oversight and working groups;
- monitoring and advising on Council’s operations, documents and processes such as the Auckland Plan and the Long-term Plan; and
- undertaking reviews and Te Tiriti o Waitangi Audits of Council.

Over the last ten years the Board has been involved in Council’s resource management planning and decision-making; and has had the opportunity to consider what has worked well and identify areas of improvement. We consider that there is opportunity to further build on and strengthen some of the existing building blocks, rather than embarking on wholesale change.

## **Summary of Board Recommendations**

1. Strongly affirm an additional challenge of for the resource management system in that it has a piecemeal approach to Māori as co-decision-makers.

### **Issue 1: Legislative architecture**

- That a single decision-making framework in a separate Act be established, that applies to all aspects of local government, transport planning and environmental / resource management.
- That the decision-making framework should be enhanced to ensure that the mana of Māori as rangatira and kaitiaki in decision-making is appropriately recognised and provided for.

### **Issue 2: Purpose and principles of the RMA 1991**

That existing principles remain largely as they are, but that they are enhanced with more deliberate and direct wording about implementation and outcomes. By way of illustration:

- Section 5 could be rewritten to ensure it states clearly that it requires the setting of bottom lines.
- That section 7a and section 8 include the principle of rangatiratanga and partnership as a matter of national importance. We consider that section 8 could be expanded so the principles of the Treaty are spelt out in more detail – as per the next section.

### **Issue 3: Recognising Te Tiriti o Waitangi / the Treaty of Waitangi and Te Ao Māori**

- That the functions and responsibilities of local government should be consistent and give effect to the principles of Te Tiriti o Waitangi and the Treaty of Waitangi.
- That the principle of rangatiratanga and partnership be addressed by empowering Māori to co-govern and co-manage with local authorities their environment, land, waterways and fisheries.
- That delegated responsibilities to local government should include upholding Treaty rights and interests of Māori.
- That section 8 raise the legal status of Treaty provisions from “take into account” to “give effect and provide for Te Tiriti o Waitangi”. In addition, section 8 could include further articulation of Treaty principles to avoid confusion and aid interpretation.

- That the Te Tiriti o Waitangi provision include mechanisms to audit performance and effectiveness of authorities, similar to the role of the Independent Māori Statutory Board (LGA 2009) at a national and regional level, to ensure that all parties are meeting their legislative obligations.
- That Iwi authorities be provided with funding to support their participation and contribution to resource management decisions and processes.
- That existing provisions related to the inclusion of Iwi planning documents be strengthened and include funding mechanisms to support the development and implementation of plans in Council planning processes.

#### **Issue 4 and 7: Strategic integration across the resource management system and policy and planning framework**

- That the existing legal provision for Iwi documents be significantly strengthened and provided for in Council planning documents and processes.
- That there be some legal provisions, principles and expectations to strengthen and /or establish:
  - Spatial planning complemented by a Māori Spatial Plan (building on the Independent Māori Statutory Board Māori Plan approach)
  - The relationship of the Spatial Plan, Unitary Plan, second order plans and the medium and long-term funding pathways and budgets e.g. LTP and departmental budgets
  - The provisions for Iwi Management Plans or Iwi documents
  - The relationships of the two arms of government and their relationship with Māori
  - Parameters on how the two arms on government work together with the Treaty partners in the resource management system to develop a spatial plan.

#### **Issue 5: Addressing climate change and natural hazards**

- That any resource management legislation enacted to address climate change and natural hazards uphold Treaty obligations and enhance rangatiratanga and kaitiakitanga of Mana Whenua, Iwi and Hapū and their tribal territory.

#### **Issue 6: National direction**

- That the revised resource management system establish a National Policy Statement to guide authorities on provisions related to giving effect to Te Tiriti o Waitangi and the Treaty of Waitangi.
- That the revised resource management system establish a National Policy Statement to guide authorities on spatial planning that also includes guidance on recognition and protection of Māori cultural landscapes e.g maunga in Tāmaki Makaurau.

## **Issue 11: System monitoring and oversight**

- That the panel consider the issues and proposed solutions outlined in this submission to improve Issue 11 – System monitoring and oversight.

## **Issue 12 and 13: Compliance, monitoring and enforcement and Institutional Roles and Responsibilities**

Note that three levels of direction-setting, monitoring and reporting are required for the Resource Management System and that:

- That a new national body that includes a Māori Board (with members selected by an iwi selection panel) is established that sets direction for the resource management system and undertakes audits of performance including meeting Treaty responsibilities.
- That key government departments are responsible for setting expectations, standards and guidance, and measures / bottom lines for the four wellbeing.
- That local government operates at a regional level as unitary councils with a Māori Board (with members selected by an iwi selection panel) or using a unitary council model.

## **Challenges facing the resource management system**

### **1. The resource management system has a piecemeal approach to Māori as co-decision-makers**

The Board agrees with the identified challenges presented on pp11-13. In addition, the piecemeal approach to Māori decision-making in resource management decisions is a major challenge. It is important that discussions about a transformed resource management system consider how this challenge can be addressed in a revised system. Any future resource management system should, as a minimum, emulate and extend on progressive relationship agreements made through Treaty Settlements to recognise and provide for Iwi, Hapū and Māori interests and rights. This includes broadening co-governance and co-management arrangements to include Māori as decision-makers in both central and local government decisions.

Currently, legislative directives promote Māori participation in decision-making processes rather than being at the table as decision-makers. If Māori are not involved as decision-makers within their respective tribal territories, then the system:

- fails to give effect to Te Tiriti o Waitangi in upholding ‘rangatiratanga<sup>1</sup> of Iwi and Hapū’. At this point in time the Crown has established a number of co-governance arrangements with Māori as a benchmark for expressing Crown’s Treaty partnership with Māori. Any revised resource management system should support this progress and reflect this development to ensure “that decisions made in respect of their ancestral land, taonga and wāhi tapu are the correct ones”<sup>2</sup> and consistent with Te Tiriti o Waitangi.
- diminishes the ability of authorities to co-design solutions which include mātauranga Māori to address pressing resource management challenges and issues outlined in the “Opportunities for Change- Issues and Options Paper”.

**The Board recommends including as an issue:**

**Piecemeal approaches to Māori as decision-makers in the resource management system need to be addressed.**

Set out below are specific comments on issues 1-7,11,12 & 13.

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<sup>2</sup> Nga Uri o Wiremu Moromona Raua ko Whakarongohau Pita v Far North District Council A014/08 (EC).

## Issue 1: Legislative architecture

Land use (development) and environmental protection cannot be separated and need to be managed and considered holistically to achieve local, regional and national outcomes.

A holistic approach is more aligned to a Te Ao Māori worldview. A holistic approach should also strengthen the consideration of cumulative effects which is currently not being managed effectively in decision-making processes. i.e improving outcomes for people, native species and the environment, not just managing effects. It is important that land use and environmental protection is strategic and takes a long-term and intergenerational view that focusses on achieving all the wellbeing outcomes in rohe/spatial areas.

It is the view of the Independent Māori Statutory Board that a single decision-making framework in a separate Act that applies to all aspects of local government, transport planning and environmental / resource management should be put in place. The framework would incorporate all the aspects and principles of decision-making that currently sit across all the statutes that have strategic and spatial lenses. The framework should also be enhanced to ensure that the mana of Māori as rangatira and kaitiaki in decision-making is appropriately recognised and provided for. Existing provisions and practices acknowledges kaitiakitanga but not the rangatiratanga of Mana Whenua.

The Independent Māori Statutory Board strongly recommends that a robust decision-making framework is the first critical step in developing options to improve the RM system. This framework should establish shared ownership for achieving shared environmental and urban development outcomes over time. Māori, with their Te Ao Māori perspective and as a Treaty partner expressing their rangatiratanga, should be sitting at this decision-making table.

Elevating Mana Whenua in their decision-making role provides for a sustainable Treaty partnership. As part of the contemporary Treaty discourse and [post] Treaty Settlement era, the resource management system should at least mirror established Treaty Settlement arrangements with Mana Whenua. This requires transformative change to our current resource management system and decision-making roles.

### Recommendations:

- **That a single decision-making framework in a separate Act be established that applies to all aspects of local government, transport planning and environmental / resource management should be put in place.**
- **That the decision-making framework should be enhanced to ensure that the mana of Māori as rangatira and kaitiaki in decision making is appropriately recognised and provided for.**

## **Issue 2: Purpose and principles of the Resource Management Act 1991**

The framework across multiple statutes that apply to local government needs to re-set to be consistent. Generally all local government decision making should be subject to the same high level principles. The principles could be an amalgamation of the LGA and RMA plus parts from LTMA and other statutes that contain high level specific decision making principles. Specific requirements that are statute specific and more operational than strategic can be retained in the specific statutory regime.

### **Decision making principles**

General decision making principles need to include:

- In relation to current resource management decision-making, keep something similar to section 5 with whatever changes are envisaged to that section and sections 6, 7 and 8.
- In relation to local government decision making (of which resource management is a component) largely keep the framework set out in the LGA 2002 including sections, 14 (principles of local authorities), 39 and 40 (governance), decision making in section 48. Note also there are specific separate decision-making principles that pertain to Auckland in that legislation.
- Read and applied correctly section 5 of the RMA provides that environment limits (or biophysical bottom lines) do have explicit priority over development and other goals. However, this could be more direct as further noted below.

The Independent Māori Statutory Board considers that section 5 is intended to be used in a way that ensures the important attributes of natural resources are managed in a way and at a rate to enable people and communities to provide for their economic, social and cultural wellbeing. These four areas of wellbeing are not at the expense of the biophysical environment but are enabled because the resource management system is intended to ensure this environment is managed sustainably. While trade-offs do inevitably occur section 5 provides the framework for this when it refers to the rate of management. It is still the case, however, if a resource is degraded to a state where it can no longer sustain the matters listed in section 5 then use and development of that resource should cease until such time (if ever) the resource recovers to an enhanced state.

Unfortunately, section 5 has not been applied by decision-makers in the way intended. Some of the trade-offs that have occurred have been at the expense of the environment such that decisions to cease resource use and development were not made when they should have been made.

There has been nearly 30 years of litigation involving the meaning and application of section 5 culminating in the Supreme Court decision in *King Salmon*. The system does not need re-written as to do this would essentially re-start the whole interpretation process all over again. Instead the system needs re-setting to the way it was intended to apply in 1991. It may be some changes to section 5 are required for clarity but the key in ensuring its correct implementation is – implementation. Local authorities need direction and

guidance. Resources need to be focussed on not only implementation but monitoring and compliance – see comment further below on this matter (refer to issue 11 and 12, page 11).

### **Recommendations:**

That existing principles remain largely as they are but they are enhanced with more deliberate and direct wording about implementation and outcomes. By way of illustration:

- **Section 5 could be rewritten to ensure it states clearly that it requires the setting of bottom lines;**
- **That section 7a and section 8 include the principle of rangatiratanga and partnership as a matter of national importance. We consider that s8 could be expanded so the principles of the Treaty are spelt out in more detail – as per the next section**

### **Issue 3: Recognising Te Tiriti o Waitangi /the Treaty of Waitangi and Te Ao Māori**

The Board agrees with the Waitangi Tribunal in stating that the RMA “has almost completely failed to deliver partnership outcomes in the ordinary course of business when the mechanisms to do so have long existed” (as referenced in the Issues and Option paper, page 26). The current resource management system does not identify the principle of rangatiratanga or provide Mana Whenua, Iwi and Hapū with the ability to exercise rangatiratanga to make resource management decisions about their tribal territory. Addressing rangatiratanga in a revised resource management system is an essential and critical component of transforming the current resource management system in Aotearoa New Zealand.

This review of the resource management system provides an opportunity to broaden and elevate the Crown’s current approach for contemporary legal expressions of rangatiratanga such as the establishment of the Independent Māori Statutory Board, co-governance of defined areas and joint management forums. There is growing evidence that co-governance arrangements with Māori drive better decision-making, improve environmental outcomes and strengthen connections and relationships between people and their environment.

The findings of various reports reveal that co-management arrangements with Māori, effectively address the policy failings of the status quo system and offers an attractive governance alternative which is based on the notion of indigenous environmental ethics.<sup>3</sup> Enacting rangatiratanga through local government and Iwi co-governing resource

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<sup>3</sup> Norman, P. (2011) Crown and Iwi Co-Management: A Model for Environmental Governance in New Zealand.

[http://www.kaiparaharbour.net.nz/Content/Publications/Norman2011CrownIwico\\_management\\_a\\_model\\_for\\_envtla\\_governance\\_NZ.pdf](http://www.kaiparaharbour.net.nz/Content/Publications/Norman2011CrownIwico_management_a_model_for_envtla_governance_NZ.pdf)

Auditor General Office (2016) Principles for effectively co-governing natural resources. <https://www.oag.govt.nz/2016/co-governance/docs/co-governance-amended.pdf>



management decisions will ensure Iwi and Hapū knowledge and practices are elevated to be an integral part of the resource management system. It is the Board's view that any new legislation should address the principle of rangatiratanga and partnership by enabling Māori to co-govern and co-manage with local authorities their environment, land, waterways and fisheries.

The new system also provides an opportunity to address a long held issue for Māori. This is, that the Crown has the ability to delegate authority, roles, functions and powers but does not delegate authority to local authorities to uphold Treaty responsibilities associated with resource management decisions. It is the Board's view that the delegation of responsibilities to local authorities include accountability for being consistent and giving effect to the principles of Te Tiriti o Waitangi and the Treaty of Waitangi. This clarity will greatly assist in maintaining the integrity of Crown's Treaty relationship with Māori by ensuring that local government as the Crown's delegate will realise the Treaty relationship expectations are implemented effectively at the local level.

We propose that section 8 raise the legal status of Treaty Provisions from "take into account" to "give effect to and provide for Te Tiriti o Waitangi".

By way of illustration, the Board uses a Te Tiriti o Waitangi audit to assess the performance of the various groups within Auckland Council in the context of the various statutory references to Te Tiriti o Waitangi, and to the Council's Te Tiriti o Waitangi statutory responsibilities. There have been three audits using a legislative framework/internal audit approach as well as a review into Council systems and expenditure on Māori outcomes. This resulted in Auckland Council developing a formal and politically endorsed programme of actions to address audit recommendations. Progress is reported to Council committees including monitoring oversight by the Audit and Risk Committee.

The Independent Māori Statutory Board considers its statutory purpose to assess the performance of Auckland Council using an audit approach has created strong incentives for action and correction. As the resource management system lacks structured reviews/audits with consequences we recommend that the Te Tiriti o Waitangi Audit instrument be used at a national and regional level to ensure that all parties are meeting their legislative obligations in planning (spatial and second order plans) and regulatory activities.

The RMA recognises the role of tangata whenua in various provisions of the Act. As part of achieving the purpose of the Act, consent authorities are required to consult Iwi, and to take into account planning documents prepared by them (sections 61(2A)(a), 66(2A)(a), and 74(2A)). Local authorities are directed to "take into account" Iwi planning documents when preparing and changing a regional policy statement, a regional plan or district plan. The use

and implementation of Iwi planning documents give effect to Part 2 of the RMA, particularly sections 6(e), 6(f), 6(g)<sup>4</sup>, 7(a)<sup>5</sup>, and 8.<sup>6</sup>

It is the Board's experience that councils lack specific policy guidance to "take into account" Iwi planning documents; as a result, the effectiveness of the provision has eroded.

Spatial planning has become a fundamental tool of strategic work that local authorities undertake, these spatial plans should take into account Iwi planning documents by providing for and supporting their integration into Council spatial plans. It is integral that existing provisions related to the inclusion of Iwi planning documents be strengthened. It is also necessary that funding mechanisms to support the development and implementation of plans in council planning processes are provided for.

Bay of Plenty Regional Council has also been one of the leading regions in terms of engagement with Mana Whenua. It was the first region to establish Māori constituencies with 3 Māori 'seats' established in 2004. Waikato Regional Council has since followed suit with two Māori constituencies.<sup>7</sup> The inception of Māori wards and Māori councillors to the Bay of Plenty Regional Council has been successful in providing for funding mechanisms that support council planning processes such as Council's annual Iwi Management Plan funding, Māori hearing commissioner sponsorship, biennial regional Māori conferences, Māori student internships and a Māori economic strategy.<sup>8</sup> This demonstrates the need to establish co-decision-making with Māori to ensure there is systemic change aligned to Te Tiriti o Waitangi and quality decisions in the management of resources.

#### **Recommendations:**

- **That the functions and responsibilities of local government should be consistent and give effect to the principles of Te Tiriti o Waitangi and the Treaty of Waitangi.**
- **That the principle of rangatiratanga and partnership be addressed by empowering Māori to co-govern and co-manage with local authorities their environment, land, waterways and fisheries.**

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<sup>4</sup> RMA Section 6 Matters of national importance

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance...

(e) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:

(f) the protection of historic heritage from inappropriate subdivision, use, and development:

(g) the protection of protected customary rights

<sup>5</sup> RMA Section 7 Other matters

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

(a) kaitiakitanga

<sup>6</sup> RMA section 8 Treaty of Waitangi

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the [Treaty of Waitangi](#) (Te Tiriti o Waitangi).

<sup>7</sup> Unpublished Report Freshwater: issues and opportunities A scoping paper for the Independent Māori Statutory Board. Prepared by Gerard Willis.

<sup>8</sup> Kataraina O'Brian and Fiona Mc Tavish, Māori Representation – Democracy in Action cited in Unpublished Report Freshwater: issues and opportunities A scoping paper for the Independent Māori Statutory Board. Prepared by Gerard Willis.

- That delegated responsibilities to local government should include upholding Treaty rights and interests of Māori,
- That section 8 raise the legal status of Treaty provisions from “take into account” to “give effect to and provide for Te Tiriti o Waitangi. In addition section 8 could include further articulation of Treaty principles to avoid confusion and aid to interpretation.
- That the Te Tiriti o Waitangi provision include mechanisms to audit performance and effectiveness of authorities, similar to the role of the Independent Māori Statutory Board (LGA 2009) at a national and regional level to ensure that all parties are meeting their legislative obligations.
- That Iwi authorities be provided with funding to support their participation and contribution to resource management decisions and processes.
- That existing provisions related to the inclusion of Iwi planning documents be strengthened and include funding mechanisms to support the development and implementation of plans in council planning processes.

## **Issue 4 and 7: Strategic integration across the resource management system and policy and planning framework**

In Tāmaki Makaurau, the Auckland Plan 2018 provided a better process and engagement with Māori. At that time the Independent Māori Statutory Board had become more established with a set of instruments and review findings. It had been actively involved at all stages of the Auckland Plan development at political and executive levels.

The experience of the Independent Māori Statutory Board in Tāmaki Makaurau is that spatial planning has been critical in ensuring (1) a clear spatial planning framework for the Auckland Region; and (2) that appropriate recognition and provision has been taken of the rights and interests of Mana Whenua and Mataawaka through the development of the Māori Plan and Schedule of Issues of Significance (updated in 2017).

Working with Māori in 2012, the Independent Māori Statutory Board developed the Māori Plan that has a 30-year timeframe. It sets out their values, aspirations and outcomes and includes a value based Māori Wellbeing measurement system. From this the Independent Māori Statutory Board produced Māori value reports and two Māori Reports as the evidence base to inform the Schedule of Issues of Significance for Māori and decision-making.

The Māori Plan complements the Auckland Plan in part illustrated by Auckland Council’s resolution to use it when developing the Auckland Plan 2018. It takes a Te Ao Māori perspective with an intergenerational and integrating outcome approach.

As Treaty partners involved in decision-making, Iwi can be empowered to use a Māori Plan approach which would then form the basis of a Māori Spatial Plan which would be a key instrument for developing a spatial plan.

A Māori Spatial Plan would also draw together Māori interests and long-term priorities from all the Iwi Management Plans in the region with more Iwi specific short-medium term interests and priorities being addressed through second order plans plan eg Area Plans and Master Plans. In some plan processes councils generally refer to the existence of Iwi Management Plans; note that they have considered them but on the whole there is no evidence that councils have addressed and responded to them specifically. The Board recommends that the existing legal provision for Iwi documents be significantly strengthened to give effect to Iwi planning documents registered with local authorities.

The Board has been involved in the lower order spatial plans known as Areas Plans that focus on Local Board areas. We note that engagement with Māori has improved over time with these plans but note that Māori sometimes do not have the time and the resources to participate. To date such plans have been strongly owned by a Local Board and become a vehicle for them to advocate for resourcing. Ideally the Areas Plans should have a statutory status, having a stronger link to the Auckland Plan especially its development strategy, and be more sub-regionally based. Then they would be better pitched to shape Council's LTP decisions. This may also address the very weak link between the Auckland Plan and the LTP that acts predominantly as a 3-year budget.

The relationship between local and central government in developing and implementing the two Auckland Plans has been very political and patchy. Until the last couple of years central government seemingly stepped away from meaningful engagement at both political and executive levels. A Board member was part of work with central government on measures/targets, but this work did not progress. There are some good examples of working together with other sectors such as the ATAP Transport Project, however they do not take an integrated approach and do not address other wellbeing outcomes and equity issues.

A stronger legal link between the Spatial Plan/Auckland Plan (with greater emphasis on development strategy – with long range funding and financing pathways) and the second order plans of both local and central government is needed. This would then encourage the local government Long-term Plans and departmental budgets of key department to become more strategic. It may also improve the political discourse and negotiation. The same applies to making a stronger legislative link between the Auckland Plan and the Unitary Plan.

A more integrated spatial approach to plan-making that has a focus on outcomes points to the desirability and simplicity of integrated institutional arrangements such as a unitary council. Aware of the time and costs of developing an Auckland Sustainability framework and the Regional Growth Strategy we consider that without a Unitary Council it would have taken much more process and resources to develop the Auckland Plan. Regions with larger populations and growth pressures would need to establish unitary councils or put in place mechanisms to operate in a unitary manner..

Therefore we propose that there should be some additional legal provisions, principles and expectations to strengthen and /or establish current arrangements.

## **Recommendations:**

- **That the existing legal provision for Iwi documents be significantly strengthened and provided for in council planning documents and processes.**
- **That there be some legal provisions, principles and expectations to strengthen and/or establish:**
  - **Spatial planning complemented by a Māori Spatial Plan (building on the Independent Māori Statutory Board Māori Plan approach)**
  - **The relationship of the Spatial Plan, Unitary Plan, second order plans and the medium and long-term funding pathways and budgets eg LTP and departmental budgets**
  - **The provisions for Iwi Management Plans or Iwi documents**
  - **The relationships of the two arms of government and their relationship with Māori**
  - **Parameters on how the two arms of government work together with the Treaty partners in the resource management system to develop a spatial plan.**

## **Issue 5: Addressing climate change and natural hazards**

The Board considers that as a first step the purpose and legal framework for resource management decision-making be set.

These resource management decision-makers (with Māori as Treaty Partners) will then be able to then address climate change and natural hazard challenges taking a long-range outcome focus and be guided by a Te Ao Māori, mātauranga Māori approaches and sound research.

In other words, climate change and natural hazard challenges and the regional adaptation plans be addressed in the development of the spatial plan and that policies and regulatory actions be set in second order plans such as the Unitary Plan. Creating a parallel or separate processes for these challenges would create added demand on limited resources.

Key climate change and natural hazard measures and targets would be reported as part of spatial plan and second order plans, unitary plan reporting and also have national auditing.

## **Recommendation:**

- **That any resource management legislation enacted to address climate change uphold Treaty obligations and enhance rangatiratanga and kaitiakitanga of Mana Whenua, Iwi and Hapū and their tribal territory**

## **Issue 6: National direction**

The problem with the RMA system is it was brought into effect with no national guidance or direction for about 10-15 years. Every local authority was left to flounder around and make their own decisions about resources whereas a national approach would have greatly enhanced outcomes for both planning and resource use and development. The issue is not whether there is one over-arching National Policy Statement or several. The issue is that such policy statements are necessary and crucial to ensuring national consistency.

There has been inconsistent approach across local government in conducting effective relationships with Mana Whenua and Māori and giving effect to statutory obligations. This is a consequence of insufficient capability, policies and processes. National guidance is required and we propose that there be a National Policy Statement on Te Tiriti/ the Treaty in the resource management system (this would not include the Treaty Settlement process).

### **Recommendation:**

- **That the revised resource management system establish a National Policy Statement to guide authorities on provisions related to giving effect to Te Tiriti o Waitangi and the Treaty of Waitangi, including guidance on Iwi with overlapping interests.**
- **That the revised resource management system establish a National Policy Statement to guide authorities on spatial planning that also includes guidance on recognition and protection of Māori cultural landscapes e.g maunga in Tamaki Makaurau.**

## **Issue 11: System monitoring and oversight**

In terms of the support from central government in addition to resources (largely financial and capacity provision) significant guidance will need to accompany any change to the decision making framework. This could look like:

- Guidance material
- Specific direction such as in the form of an NPS on way in which the 4 wellbeing areas can be incorporated into decision making including guidance on Treaty principles. This would include guidance on development of a regional Māori spatial plan (Mana Whenua and Mataawaka, covering both Article 2 and Article 3 matters).
- Model provisions
- Model frameworks for Māori Boards or similar

### **Recommendation:**

- **That the panel considers the issues and solutions outlined in this submission to improve Issue 11 – System monitoring and oversight.**

## **Issue 12 and 13: Compliance, monitoring and enforcement/ Institutional Roles and Responsibilities**

The Board considers that limited direction and resources have been applied to monitoring evaluation, and enforcement of the resource management system at all levels. The lack of integration across the various plans has meant a proliferation of expectations, guidance and free-floating measures. They have high transaction and resource costs to monitor and review, resulting in patchy responses and little correction.

Central Government national direction and standard setting is starting to get established. The National Monitoring System is relatively young and is mostly process and output focussed. The NES are established by regulation and there has been limited evaluation and considered response to their results. The Environmental Protection Authority has a role in respect of significant consents and enforcement; with the PCE, as a statutory officer providing independent advice of the environmental system, and environmental reporting.

The RM Review provides an opportunity to build on the RM monitoring and reporting to provide clarity and improved monitoring and reporting, for environmental reporting but also the all the well-beings in a spatial plan. We note that there are helpful provisions across legislation for monitoring and reporting; and propose building on these with clarifying responsibilities and establishing a new entity.

We consider that a spatially-based holistic outcomes approach will require more thorough and practicable measurement, evaluation and enforcement. This should bring a greater up front use of research and evidence in the plan development rather than as part of appeal process. As part of good practice, measurement should be undertaken and part of the planning process – not as any afterthought. Some solid initial investigation and then prioritisation by stakeholders will avoid a multitude of measures/ targets.

The Board assumes that there are at least three levels of monitoring and reporting:

- Resource management system level (national level) for direction setting and system effectiveness
- Regional level; (spatial planning direction setting)
- Implementation in the region (Agency, Mana Whenua, Applicant)

Set out in an attachment table are proposals for these levels of monitoring and reporting.

Instead of a staged approach to reform that will delay addressing the obvious challenges, the Board supports a transformative approach that strengthens existing instruments that will require a new entity to drive this reform. We do not consider that any existing agency has the requisite knowledge base and skill sets to set up expectations, critical success factors and undertake robust reviews and audits of the new RM system.

Consistent with supporting a Treaty-based decision-making framework in RM decision-making, this new entity would include a National Advisory Māori Board to monitor efficiency and effectiveness of Treaty-based provisions. This could include or setting up expectations and measures for central government, local government and Iwi/tangata whenua, to identify and account for Te Tiriti, rangatiratanga and kaitiakitanga objectives in their direction, planning and monitoring/review.

## **Recommendations:**

- **Note that three levels of direction-setting, monitoring and reporting are required for the resource management system.**
- **That a new national body that includes a Māori Board is established that sets direction for the resource management system and undertakes audits of performance including meeting Treaty responsibilities.**
- **That key government departments are responsible for setting expectations, standards and guidance, and measures / bottom lines for the four wellbeing.**
- **That local government operates at a regional level as unitary councils with a Māori Board (with members selected by an iwi selection panel) or using a unitary council model.**



Attachment : Instruments for Compliance, Monitoring and Compliance

Goal-Instruments	Agency	Expectations to	Comment
<p><b>Ongoing effectiveness of the RM System</b></p> <p>Monitoring and Reporting on RM System</p>	<p>New Agency – Crown Owned Entity – with National Advisory Māori Board.</p> <p>Input from Infrastructure Commission, EPA and PCE</p>	<p>CG/ LG Performance focus</p> <p>Expectations and guidance</p> <p>Review and audits as required</p> <p>Treaty Audits</p>	<p>EPA is environmentally focussed.</p> <p>This new entity also covers development/spatial planning/the four well-beings</p> <p>The National Advisory Māori Board could provide advice to non- growth regions.</p>
<p><b>National direction and standard setting</b></p> <p>National spatial plan policy statement and standards</p> <p>NPS for Treaty Principles</p>	<p>Te Arawhiti -The Office for Māori Crown Relations (Treaty)</p> <p>MfE (environment/urban development)</p> <p>MfE/Chief Statistician for wellbeing indicators</p> <p>Oversight from the central agencies – e.g. strategic direction, infrastructure, funding and financing, CE accountability</p>	<p>Councils</p>	<p>The Chief Statistician is independent re indicators</p>
<p><b>Accountability to local communities</b></p> <p>Developing, monitoring and reporting on spatial plans</p>	<p>Unitary Council with regional Māori Board (growth regions) including a Māori Spatial Plan</p> <p>District Council/RC joint committee (smaller non growth regions)</p>	<p>Three-yYearly full report (prior to LTP) for accountability to communities</p>	<p>Yearly theme-based reports focussing on impacts and responses</p> <p>Ensure responsiveness to regional/local aspirations and circumstances</p>

Enforcement of resource consenting decisions/conditions	Council at local and regional levels EPA for significant consents)	Resource users	Note the increased role of the EPA for enforcement (RMA Amendment 2019)
Review environmental reporting	PCE		