# Methodist Church Te Hahi Weteriana - Methodist Public Issues

## SUBMISSION ON RESOURCE MANAGEMENT REFORM
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Tena Koutou - Greetings

This is a brief submission on Resource Management Reform in anticipation of amendments proposed for the RMA 1991.

Methodist Public Questions is a network of approximately four hundred members and over two hundred parishes concerned with and involved in public issues. Members are made up of the constitutive synods of the Methodist Church: Te Taha Maori and Tauiwi which is comprised of Sinoti Samoa, Vahefonua Tonga, Wasewase ko Viti kei Rotuma e Nui Siladi and Pakeha. There are ecumenical groups associated with the Network as well.

Public Issues has engaged with Environmental organizations and church networks, and with the Oversight Group of Public Issues; and attended Consultation meetings and Hui, to compile this submission.

Warm regards

Betsan Martin
Co-ordinator, Methodist Public Issues

# Resource Management Reform 2013

Methodist Public issues appreciated the provision of a consultation process throughtout the country, with both meetings and hui to enable engagement in the proposed changes from all interested groups. Given the importance of resource management to tangata whenua we commend the Ministry for Environment in providing hui as well as public meetings.

Public Issues wishes to support some of the changes proposed, to raise concern about others, and to identify issues which we oppose.

Changes are proposed to give more power to Central Government to make RMA planning consistent across the country, and the introduction of a national template for consents. While we appreciate there is a place for Central Government leadership and responsibility, we consider this must not compromise tangata whenua interests and local engagement.

We draw attention to some matters of principle, as well as detail. People in our networks have strong concerns about the value of nature, as is consistent with the care for integrity of creation mission of the church.

Our concerns are not easily identified in a particular text or section of the discussion paper; rather they come from the overall tenor of the changes and the expected implications. In particular criticism is focussed on the emphasis on achieving economic development through more central control. There is much concern about the change in weighting towards centralized authority and away from public engagement and responsiveness to local priorities.

There are tensions and dilemmas between environmental protection and development interests. Public Issues would like to see weight given to environmental safeguards and responsibility to ensure environmental integirty across generations to guide decision-making.

Public Issues does not agree with the implication in the document that the views of New Zealanders have changed – suggesting people's views are more economically oriented. While NZers may value economic development, the loss of biodiversity, climate change and other social issues, such as inequality mean that we must hold the line on values and environmental safeguards.

Our concerns come from the discussion references to 'today's values' and emphasis on economic activities from the following sections:

> The Government has received advice that todays values and priorities are not well enough reflected in the RMA (P. 19).
>
> The RMA ….has become complex and costly and …does not effectively reflect contemporaty values or resolve tensions between different community values upfront (p. 32)

> 'After 20 years of RMA practice there is concern that the predominance of environmental matters … may result in an under-weighting of the positive effects … of certain social and economic activities (p. 35).

The changes proposed imply a shift to an economic and development weighting. We perceive there are hidden consequences of streamlining and efficiencies, such as facilitating and simplifying consents processes and centralizing decision-making.

## Support

- Public Issues notes that the purpose of the RMA is not to be changed, and the purpose of sustainable development is retained. Integration of social, environmental and economic interests is at the core of sustainability. All three areas are interdependent. In the RMA as it stands, values include social, environmental and cultural wellbeing, the needs of future generations, and the life supporting qualities of air, water and soil and eosystems. A focus of our interest is whether the purpose is will integrated into the proposed amendments.

- There is a requirement to take account of the Treaty of Waitangi , and the relationship of Māori to taonga, wahi tapu and ancestral sites. Customary rights are provided for.

  Iwi/Maori have statutory provisions for advice into Council plans. Provisions for Iwi/Maori participation are not always in place, and we support the proposal that these will be required. This is expected to improve Iwi and Maori input into the development of plans. Where provisions of Treaty Settlements are in place with Councils, these will continue.

- Public Issues supports the strengthening government leadership on matters of National Importance. These include natural character (wetlands, lakes, rivers and protections from excessive subdivision) landscape features, significant indigenous vegetation. Proposals for change include more direction from Cental Government on matters of National Importance and centralized powers to direct plans.

- Including provisions for natural hazards in Section 6 is supported.

## Public Issues identifies loss of environmental accountabilities and weakened provisions for public engagement

- Integration of Sections 6 and 7 risk the loss of environmental and cultural values (see below under changes which are not supported.

- The discussion paper says the decentralized structure means there are many inconsistencies across regions, that the system for resource use is complex, that there are too many delays for development activities and that consents are costly. While there may be a case for streamlining, decentralization is the conerstone of local engagement and decision-making that retains environmental accountabilities.

- The streamlining of plans into a single template for resource management plans, will being greater coherence and consistency across regions. The proposal is for these to be designed by Central government. There is caution that independent commissioners are not elected – so there needs to be safuards to ensure independence. The requirement

that all councils will have a single plan within 5 years, to replace the current separate regional policy statement, regional coastal plan and district plan, is a simplification which needs to provide mechanisms for responsiveness to local contexts.

- While a shorter time for processing consents has some efficiency gains we have reservations because Public enggement will be undermined by the 10 day time limit for straightforward non-notified consents, and 20 days for more complex consents.

- Similarly, the changes to Notified Consents for activities which are larger scale and allow for submissions and appeals. In the interests of investors, such as for apartment block developments, there may be fewer restrictions (such as getting permission from neighbours) and there will be limitations to appeals that can be allowed.

- The reduction in the role of the Environment Court is a further step to removing or by-passing recourse to judicial assessment.
  Appeals to the Environment Court would be 'narrowed' and limited to cases where the Council decision is different from that of the hearings panel. The might be limitation to new evidence that could be admited to the Environment Court
  To address the perceived time delays in the Environment Court responding complex issues, time restrictions might be enforced. We note that provisions of time allow for full assessment to take place and evidence to be compiled.

  The Environment Court is an important archive of environmental knowledge that will have a reduced role as arbitor of environmental sustainability.

- New independent hearings panel would oversea the consent process.
  The introduction of 'independent hearings panels' to oversea consultations and submissions is part of the streamlining that will reduce the capacity for the presentation of evidence on environmental impacts.

- The intention of freeing up more land for housing development is a simplistic approach to addressing the housing crisis. The discussion paper cites a lack of overall co-ordination of plannng for economic growth among councils. The proposed solution of mechanisms to facilitate urban growth with the availability of land supply does not address mechanisms for infill housing or provide policy incentives for low income and social housing.
  High house prices are not only due to lack of availability of land for housing development. Issues of market rents and high land prices must be included in solutions.

  It is appropriate that Local authorities determine how to provide land in accordance with local housing issues and projected needs.

## Public Issues does not support the following:

- We oppose deletion of provisions for stewardship, amenity values, intrinsic values of ecosystems, enhancement of quality and finite characteristics of the environment. The deletion of these provisions along with dletion of the requirement for decision-makers to preserve or protect weakens the environmental terms of references for decision-makers. Deletion of all of these provisions undermines the purposes of the RMA Act.

- Re. Sections 6 and 7. Public Issues identifies a loss of environmental weighting in the proposed new Section 6. We do not support the proposed changes to these Sections. We do support the inclusion of We oppose deletion of the RMA references to concepts of 'preservation and protection' of environmental qualities and to an ethic of stewardship.

- Sections 6 and 7 were originally to provide guidance to decision-makers on interpreting the sustaable management purposes of the Act. The environmental matters in Section 6 were to be given greater weight than the range of matters in Section provision for natural hazards as above.

- The requirement in the new Section 7 (5) to 'Achieve an appropriate balance between public and private interests in the use of land'. Public and private interests need to be clarified. This has no explanation, and further suggests an emphasis on making land available for development.

## Analysis of the current workings of the RMA

We query the MFE position that the RMA is over-weighted towards environmental interests, that the consent process is slow and that the RMA is holding back economic development. For example, Oram (RadioNZ 5 March 2013) cites statistics from the consent process. In the period 2010-11

- there were 36,154 resource consent applications nationally. Of these, 203 were declined (0.56%)
- Of all applications, 6% notified. Of those that were notified 357 cases, ie 1% were appealed. 0.56 % of applications were declined.
- Local Government are exercising their obligations in a timely manner, ie 95% resource consent applications were processed on time.

These figures run counter to the arguments of the government discussion paper ; that is they provide evidence of a system that is working effectively in terms of consent proceedures and timeliness.

In making the case for the timeliness of the current consents process, and of the low number of applications that are declined, Oram shows that the RMA is working effectively *for* development. This implicitly suggests that the RMA is not blocking development and that many of the proposed changes are not required.

## International Implications

International considerations are outside the brief of the RMA. However Public Issues is working on a range of issues and we would like to bring to your attention some further implicatins of the proposed changes. This content is adapted from draft material made available to us.

***Padific Rim Context***

The Trans Pacific Partnership is effectively a Pacific Rim agreement being negotiated between countries including Australia, Brunei Darusslam, Chile, Malaysia, New Zealand, Peru, Singapore, Vietnam, and the United States. Japan stepped in in the Singapore round, and Canada, and Mexico, may join the negotiations.

A major objection to the TPPA that is widely identified is the secret negotiations which preclude

any accountability to the public in any of the negotiating countries. The only people, apart from TPP government officials, with access to texts are more than 600 business representatives who serve as official US trade advisors.

As identified in an IUCN briefing paper (2013) 'The Pacific Rim is an area of great significance from an environmental perspective. It includes Australia's Great Barrier Reef, the world's largest coral reef system, home to more than 11,000 species. It includes Peru and its Amazon Rainforest—one of the most biologically diverse areas on Earth, with thousands of species of birds, plants, mammals, and fish. The Rainforest is also home to Indigenous Peoples who live with, live in, and rely upon the forest'.

The TPPA, Trade Agreements in general and domestic legislation should all be deisgned to serve environmental safeguards, and to have reulations and accountabilities to stop exploitation, such as deforrestation, and to have enforcable clean-up provisions as well. There is a case in Peru where a US corporation Renco invested in a metallic smelter. The agreement hadd clean up obligations which were never fulfilled. After the Peruvian government refused an extension on clean up obligations Renco sued the Perusian government under their US-Peru FTA.

***New Zealand interests***

New Zealand is currently engaged in negotiations for a Trans Pacific Partnership Agreement (TPPA). Existing provisions in some of those agreements, and proposals in the TPPA add to our concerns about the proposed RMA changes. We give one example from the TPPA.

According to information available on the TPPA negotiations the Investment provisions will require each party to provide "Minimum Standards of Treatment" to overseas investors. The interpretation of this has varied in dispute panel hearing cases. They have been taken to imply, inter alia, that overseas investors are entitled to a "stable and predictable regulatory environment." This provision has been used to successfully challenge a variety of regulatory changes, including changes in environmental and health law, regulations and administration that foreign investors claim have impacted adversely on their commercial investment, irrespective of how damaging their operations or how justified the new measure may be.

***Investor State Dispute Settlements and Environmental Standards***

The concerns about these provisions are heightened by the proposed availability in the TPPA of Investor State Dispute Settlement (ISDS) provisions. At present Australia is resisting this provision, and we do not know New Zealand's position.

ISDS will allow individual investors (such as international corporations) to sue governments over loss of projected value or profit. They can challenge laws, regulations, administrative decisions and court decisions.

The "Minimum Standards of Treatment" is expected to put a bar against future government or local authorities endeavours to strengthen environmental protections, either by restoring the effectiveness of the RMA or by using delegated powers under it. Indeed this came up at an MFE Consultation on the 'Freshwater Reforms 2013' for proposals for the management of water. Here the diagram for water quality standards (fold out at back of the document) indicated minimum 'bands'. The discussion clarified that improved standards are a goal, and there would be no reduction in standards. In the case of an Investor dispute, which is possible under the TPPA or other international agreements, NZ entities (such as Local Authorities) could be subject to extensive and prolonged legal disputes seeking in compensation and interest, at a level of millions of dollars.

Such law suits could include loss of asset value from stronger environmental standards that a government may introduce after the date of a TPPA or Trade agreements.

Many New Zealanders are very concerned that such hearings are held before private international dispute tribunals, normally with no public access (or even notification), nor publication of evidence and decisions, and without any requirement to respect decisions of other tribunals. The TPPA is particularly dangerous because it includes the US, whose corporations are notoriously litigious and may be willing to commit financial resources to litigate on a scale far outside that the New Zealand Government would consider appropriate to match for a specific issue.

The majority of the known international investment dispute cases involve a range of natural resource activities including mining, power generation and distribution, waste disposal, environmental and health standards, requirements for environmental impact assessment, and other environmental matters.

We draw attention to the proposed weakening of the environmental protections of the RMA which will be difficult or impossible to reverse because of the threat that higher standards of environmental protection will lead to expensive and lengthy challenges by investors.

## Conclusion

In conclusion Public Issues affirms support for matters of responsibility for ensuring environmental safeguards and public engagement in sustainable management of natural resources. In a globalized environment New Zealand needs to take into account the implications of Trade Agreements and the proposed TPPA, and the likely environmental impacts, along with economic considerations.

The church speaks for ethical commitments appropriate to our times and affirms the original purposes of the Act. The Discussion paper specifically refers to the overweighting of the RMA in favour of environmental interests, and we consider that this principle should not change.

With respect

Betsan Martin for

Methodist Public Issues