

## **Horizons Regional Council**

### **Submission on the Inquiry into Local Government Regulatory Performance Issues Paper – July 2012**

#### **Introduction**

1. The following submission outlines Horizons Regional Council's (HRC) feedback on the Issues Paper provided to initiate the Inquiry into Local Government Regulatory Performance. The approach taken in this submission is to acknowledge HRC's support for Local Government New Zealand's (LGNZ) submission and provide local flavour from the Manawatu-Wanganui Region.

#### **Local Government New Zealand Submission**

2. HRC was a party to a teleconference with other regional councils to help LGNZ formulate its submission. The LGNZ submission can be regarded as having HRC's general support. This submission provides comment and local flavour from the Manawatu-Wanganui Region.

#### **Horizons' Submission Points**

##### **The Plan Making Process**

3. HRC believes that improvements to the plan making process need to be made, especially where this reduces the time and costs of plan development. The challenge is how this can be achieved without compromising the democratic process.
4. HRC has recent experience with the plan making process. The first review of the Regional Policy Statement and Regional Plans for the Manawatu-Wanganui Region is almost completed. It has resulted in what is known as the Proposed One Plan which incorporates the Regional Policy Statement, Regional Coastal Plan and five operative regional plans for the Region into one document. The basic timeline of the process was:
  - (i) Informal stakeholder consultation began in 2004;
  - (ii) Proposed One Plan notified 31 May 2007;
  - (iii) Decisions of Council Hearing Panel released 28 August 2010;
  - (iv) Environment Court decisions expected September 2012; and
  - (v) One Plan expected to be operative by December 2012.
5. The formal RMA plan development process has taken five and a half years and cost an estimated nine million dollars. It is understood that this was a reasonably efficient process for the size of the task, but it was a substantial undertaking for HRC and resulted in a significant burden on the Region's ratepayers. It is a matter of concern to HRC councillors.
6. The process also appeared to take its toll on lay submitters with many falling by the wayside, as the demands of Council and Environment Court hearings became apparent. Some submitters were also participating in other resource management hearings such as consent hearings and Environment Court hearings at the same time.

7. It is expected that the Commission will receive feedback advising that either the Council hearing of submissions or the Environment Court hearing of appeals can be eliminated from the plan development process. It is HRC's view that a professional, robust Council hearing process is an appropriate way to make decisions while retaining the democratic process.
8. HRC offers its Council hearing of submissions as an example. HRC appointed independent hearing panels chaired by an ex-Environment Court Judge, assisted by an independent hearing commissioner on technical and planning matters, and regional councillor hearing commissioners. The hearings were held in accordance with the Environment Court Practice Note and included expert conferencing and pre-hearing meetings (including lay submitters) as directed by the Hearing Panels.
9. The Hearing Panels dealt with 464 submissions (over 15,000 submission points). There were 80 hearing days over a period of two years during which evidence from HRC and 316 submitters were heard. The decision resulted in a robust, integrated resource management document. It is also clear from that the Hearing Panels considered evidence from lay submitters alongside that of expert witnesses in coming to decisions.
10. Following the mediation process the decisions of the Council Hearing Panels resulted in only 22 appeals. These were matters of contention at the Council hearing and were re-litigated in the Environment Court.

### **Planning Cascade Complexity**

11. There is a cascade of planning documents from national to district council level. Although the cascade structure seems sensible, in practice implementation of the cascade is inefficient as any co-ordination of the timing of development or review of planning instruments seems more by accident than design.
12. There are two issues for HRC once the One Plan is operative:
  - (i) A requirement to make a plan change due to adoption of a National Policy Statement or National Environmental Standard; and
  - (ii) The requirement for each of the ten territorial authorities to give effect to the RPS.
13. Once the One Plan is operative HRC will be reluctant to spend resources on plan change or review process in the short-term. It is noted, however, there are already national instruments developed during the Proposed One Plan development process that may require a plan change should the RPS not give effect to them, e.g., NPS for Freshwater Management and New Zealand Coastal Policy Statement.
14. The reluctance is based on the desire to direct resources to implementation of the One Plan, rather than revisiting the Plan in the short-term. A basic outline of the One Plan is presented for context.
15. The Proposed One Plan takes the approach of identifying and tackling the four key issues facing the Region. These are surface water quality degradation, Increasing water demand, unsustainable hill country land use and threatened indigenous biological diversity. There was general agreement about the issues but considerable debate about methods to address them during the formal planning process.

16. There are no easy, short-term fixes for the “big four” issues and the work to make progress on resolving the issues will be a priority for HRC over two, probably more, 10-year planning cycles. The basic approaches to dealing with the issues were hammered out during the hearing process and HRC expects that its focus will be on implementation in the future. It is expected that, apart from fine-tuning the policy approaches as a result of monitoring, the need to make major changes to the operative One Plan will be an exception.
17. The other issue observed in the Manawatu-Wanganui Region is the number of planning documents needed under the current legislation and the need for integration of the RPS and Regional Plan. There are ten district councils in the Region each with its own district plan and requirement to undertake programmed reviews. District plans often respond to the same issues and “give effect to” the One Plan RPS in quite different ways. This structure does not appear cost efficient and the differences in approach mean interpretation of plans is inevitably not straight-forward. As a consequence HRC believes there is scope to simplify the planning framework and/or standardise planning documents.

### **Principles to Guide Decisions on Who Should Regulate**

18. HRC notes that the Commission has been asked to develop principles to guide decisions on which regulatory functions are best undertaken by local or central government. These are provided in Table 4, page 34 of the Issues Paper. The factors identified appear to be appropriate, although as detailed in the LGNZ submission a factor assessing who is best placed to implement (monitor and enforce) the regulation on the ground at a local level may also be a consideration.
19. A further factor may be to consider instances where a mixture of non-regulatory and regulatory methods is being used to respond to an issue and whether there are benefits in one level of government implementing them all as a package. For example, HRC uses both non-regulatory and regulatory methods for managing land susceptible to accelerated erosion and indigenous biological diversity. These methods are delivered by HRC’s land management staff members as a kind of “one-stop-shop.”

### **Monitoring Regulatory Performance**

20. HRC perceives that it is involved with a number of checks and balances relating to its regulatory performance. Some examples are:
  - (i) Ministry for the Environment - Two-yearly Survey of Local Authorities;
  - (ii) Office of Auditor General - Managing freshwater quality: Challenges for regional councils (last audit report);
  - (iii) AuditNZ - annual plan audits;
  - (iv) Ministry of Primary Industries (formerly MAF) - Annual Clean Streams Accord audit;
  - (v) Environmental Risk Management Authority - Annual HSNO report;
  - (vi) Regional Council Dairy Audit - annual auditing of dairy farm compliance results; and
  - (vii) Investigators best practice network - six monthly meeting on enforcement/investigations best practice.

21. From time to time HRC has also been audited by the Parliamentary Commissioner for the Environment and the Ombudsman when performance issues have been raised.
22. HRC has welcomed the opportunity for improvement that monitoring/auditing provides and would support any improvements to the current system provided the costs outweigh the benefits.

### **Power of General Competence**

23. HRC does not consider there are any examples where the power of general competence in the Local Government Act 2002 has been used to broaden its activities beyond core business.

### **Good Practice**

24. There are four examples of good practice in the Region where local authorities are collaborating that HRC wishes to highlight.
25. Regional Territorial Authorities' Forum – This is a forum of local government chief executives in the Manawatu-Wanganui Region with the purpose of pursuing initiatives that better integrate local government services.
26. Manawatu-Wanganui Local Authority Shared Services Ltd – This is a council controlled organisation set up in 2008 by seven councils within the Manawatu-Wanganui Region. Its purpose is to find cost savings and efficiencies for participant councils in any way it can.
27. Manawatu-Wanganui Civil Defence Emergency Management Group – This is a consortium of local authorities in the Region with a vision “to build a resilient and safer Region with communities understanding and managing their hazards and risks.” An emergency response plan and a business plan is managed by the Group.
28. Local level contracted services – Local level emergency services have been provided to four territorial authorities under contract since 2008-09 for provision of co-ordinated civil defence and rural fire capability. This is the most efficient way for these councils to fulfil rural fire responsibilities.
29. HRC is happy to provide further information of clarification to the Productivity Commission. Please contact Barry Gilliland on freephone 0508 800 800 or email [barry.gilliland@horizons.govt.nz](mailto:barry.gilliland@horizons.govt.nz) for further information.

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