



6 March 2013

New Zealand Productivity Commission
PO Box 8036
The Terrace
Wellington 6143

Attention: Steven Bailey

Dear Mr Bailey,

Inquiry into Local Government Regulatory Performance

The Thames-Coromandel District Council (TCDC) thanks the Commission for the opportunity to make a submission on *Towards Better Local Regulation*.

Firstly, TCDC commends the Commission for the progress it has made to date and on the extent and quality of information produced in the draft report. We envisage the report will be a useful resource for the Local Government sector for years to come.

For the purposes of our submission, we have not attempted to engage with the entire range of questions posted in the draft report, but have chosen to focus on areas where we have a view, disagree, or wish to add our support to issues raised in the draft report.

Chapter 3: Diversity across local authorities

Q3.1: To what extent should local government play an active role in pursuing regional economic development?

Response: We submit that local government has a strong role in supporting, promoting and pursuing economic development both at the *local level* and regionally. For example, TCDC is working on partnering in and building the Coromandel aquaculture industry with the private sector. That includes direct loan-funded investment, building of wharfing infrastructure, zoning and consenting issues, onshore roading and infrastructure planning, and working with the range of issues around the onshore mussel processing industry. Regional and national government are not in this space. Our local Council therefore has a huge impact on the national economy by this involvement as we look to facilitate growth of Coromandel aquaculture from \$31m to \$96m annually by 2025.

We concur with the findings in the report that local authorities have a big influence on local economies (p.43) through the provision of infrastructure and services, and the impacts these factors have on business. Local Government is not however just a service provider. We submit that Local Government has a significant impact on "place shaping" which is an important factor for economic wellbeing, enhancing the local characteristics of communities which in turn create attractive locations for different types of business and industries.

The recent change in purpose to Local Government means that an 'economic development' mandate is more difficult for local authorities to justify, however, we are of the view that local government has a strong role in supporting, promoting and pursuing economic development both at the *local level* and regionally.

Chapter 4: Allocating regulatory responsibilities

Q4.1: Have the right elements for making decisions about the allocation of regulatory roles been included in the guidelines? Are important considerations missing?

Response: We concur with the submission made by Local Government New Zealand that overall, the guidelines appear to contain the full range of necessary elements to sensibly allocate regulatory responsibilities between central and local government.

Q4.4: Should such analysis be a requirement in RIS's or be a required components of advice to Ministers when regulation is being contemplated?

Response: We concur with the submission made by Local Government New Zealand that experience demonstrates that the regulatory impact statement is often too late to inform the final legislation. However, we would submit that there is definitely value in analysis such as this occurring early, so as to inform the development of regulation and legislation.

Chapter 5: The funding of regulation

We make the following general comments in relation to this chapter.

We concur with the submissions findings (p.64) that local government is of the view that central government passes regulatory functions to local authorities without sufficient consideration of the funding implications for Councils.

We share the view that regulatory functions devolved from central government to local government should be at least part funded through taxation (p.67).

We would support further development of a grants programme to assist Councils, as a way of supporting the delivery of regulatory activities.

Q5.2: If general grants were to be considered, on what basis could 'needs assessments' be undertaken? What indicators should be used to assess need?

Response: We note that 'need' could be defined in a number of ways from social economic status to the land value of the district (as is used in the Financial Assistance rate), however, we submit that any such criteria has enough flexibility to take into account other 'unique factors'.

For instance, in the Thames-Coromandel District we have a usual resident population of approximately 26,000. Our ratepayer base is also approximately 26,000. However, our population swells over the summer to approximately 120,000. In some parts of our District, we have high land and capital value, however, this 'factor' is not representative of the social economic make up of our usually resident population in many parts of our district.

Using 'standard' indicators is not alone sufficient in assessing need and we submit that any criteria allow for 'other unique factors' to take into account the diversity of local authorities.

Chapter 7: Regulation making by local government

We make the following general comments in relation to this chapter.

We concur with the findings of the report that consultation with local government on the design of new regulations is generally poor (p.88) and lacks an appropriate and working feedback loop.

We also concur that post implementation analysis is weak, and absent in most cases (p.81).

We support the Commission's work to propose a range of options for strengthening the quality of analysis underpinning local government regulations and suggesting means of ensuring that local government is more engaged in the development of regulation and legislation.

We wish to specifically highlight our support for the following options (outlined in table 7.1 on pages 92 through to 95), regarding strengthening the quality of analysis underpinning local government regulations:

- Option 1: Require the RIAT to assess all RISs impacting local government's regulatory responsibilities.
- Option 3: Refuse a place on the Cabinet agenda for proposals without a RIS that fully meets Treasury requirements.
- Option 8: Post-implementation reviews conducted (by external body).
- Independent statutory body responsible for RIS reviews.

We wish to specifically highlight our support for the suggestions in table 7.2 (outlined on pages 97 through to 99), regarding options for improving capability. In particular, we note support for:

- Option 1: seconding/contracting staff within local government expertise when agencies are undertaking policy development.
- Option 3: formal (and informal) partnerships between government agencies and external experts in regulatory and local government policy.

We concur that improving engagement is an important part of improving regulatory governance.

We submit that the options in Table 7.3 (pages 100 to 102) are focussed on increasing the extent of engagement, but do not necessarily address the quality of engagement.

We support engagement making use of existing communications that already exist through Local Government New Zealand, and The Society of Local Government Managers.

Chapter 8: Local government cooperation

We make the following general comments in relation to this chapter.

We support the finding 8.1 that there is significantly more cooperation, coordination and sharing of resources occurring amongst local authorities than is commonly known (p.109).

We support the finding 8.3 that because local authorities operate within a highly diverse set of circumstances, the returns from cooperation are likely to be highly situation-specific. The Thames-Coromandel District is a good example of this, whereby we do cooperate with our neighbouring Councils, and Councils within our wider region. To use two recent examples:

- We have recently collaborated on a joint solid waste agreement with two of our neighbouring Councils.
- We are collaborating with our neighbouring Councils (by sharing planning and information) in the development of a local alcohol policy, however, our immediate neighbours have a different approach to liquor than we do on the Coromandel-Peninsula given that we have an events and tourism focus, whereas our neighbours have a more residential and rural focus. As such, whilst we may work together in planning we are not able to have a joint policy.

Again, we reiterate support for the notion that because local authorities operate within a highly diverse set of circumstances, the returns from cooperation are likely to be highly situation-specific.

Chapter 9: Local authorities as regulators

Q9.1: Are there potential pooled funding or insurance style schemes that might create a better separation between councillors and decision to proceed with major prosecutions?

Response: TCDC does not believe a pooled funding scheme for regulatory functions would be suitable given the lack of comparability between Councils and that often the decision to prosecute is based on education of the populous rather than fine recovery. For example, a Council may wish to pursue what would be perceived by others as a 'small prosecution matter' but has significance to another.

Q9.2: Are bylaws that regulate access to Council services being used to avoid incurring costs such as the cost of new infrastructure? Is regulation therefore being used when the relationship between supplier and customer is more appropriately a contractual one?

Response: TCDC currently has a trade waste bylaw aimed to reduce the cost of its wastewater activity, not necessarily the cost of new infrastructure. Across the board, bylaws are not used to avoid new infrastructure costs.

Q9.3: What factors (other than the type of regulation most commonly experienced by different industry groupings and the size of business in these sectors) explain differences in the satisfaction responded by industry sectors with local authority administration of regulations.

Response: TCDC concurs with the response of LGNZ to this question.

Chapter 10: Local government cooperation

Q10.1: Are risk based approaches to compliance monitoring widely used by local authorities? If so, in which regulatory regimes is this approach most commonly applied? What barriers to the use of risk-based monitoring exist within local authorities or the regulations they administer?

Response: TCDC does use a risk-based approach to compliance monitoring, specifically for inspection of illegal building work. We have a current level of service that sets out response times to reported cases of both medium risk and high risk illegal building work. NB: the level of risk is as defined by the Council.

Wider than that, the immediacy and intensity of response is often determined by the level of risk in cases such as water spillage, or dumped tyres and so on.

Chapter 14: Assessing the regulatory performance of local government

Q14.1: How have local authorities used the SOLGM guide on performance management frameworks - or other guidance material - to assess local government regulatory performance?

Response: TCDC has used the SOLGM guides on performance management frameworks for our planning for the Long Term Plans (and Annual reports). Through the Long Term Plans there is an increased visibility of performance reporting to the public.

Q14.4: Which of the Commission's performance assessment options have the best potential to improve the efficiency and effectiveness of assessment of local government regulatory performance and improve regulatory outcomes? What the cost and benefits of these options: Are there other options in addition to those that the Commission has identified?

Response: We support the comments made by LGNZ in response to this question, however, also note that the public are ultimately the judge of effectiveness.

General Comments

Whilst the terms of reference for the New Zealand Productivity Commission Inquiry focus primarily on the relationship between central government and local government, we wish to draw attention to the level of regulation imposed on local government by Regional Councils.

The draft report notes comments by Waikato Regional Council (p.22) that there is considerable overlap between regional and local regulatory roles, particularly with respect to land use, transport and natural hazard management.

Tensions between the regional and local level can arise from a number of factors, including 'scope creep' by a Regional Council or local Council which can lead to duplication of effort between the two levels of government; and inconsistency between regional policy statements and other legislation which can cause issues for both levels of government when it comes to

implementation of policies. For example, in our area, we have an issue with the spread of mangroves in areas on the East Coast of the Peninsula. The regulation around mangrove management has been inconsistent and caused tensions in our communities and between Councils.

These tensions can (and have) at times left TCDC in untenable situations, similar to those experienced when central government mandates regulation on local government without due consideration as noted throughout the draft report. Such an environment does not engender respect from ratepayers and the community as it ultimately translates into unnecessary bureaucracy and cost. If local government is going to be truly efficient, then the tensions that exist in regulation between regional and local government, as well as the clarity of roles between the two need also be addressed.

Finally, again, TCDC commends the Commission on its draft report. If you have any further queries, please do not hesitate to contact me on (07) 868 0200.

Yours sincerely



David Hammond
CHIEF EXECUTIVE

