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Q3.1	To what extent should local government play an active role in pursuing regional economic development?	Tauranga City Council believes that local government has a very important role in pursuing economic development on a local and regional basis. Until 5th December 2012 the purpose of local government as detailed in the Local Government Act 2002 included the promotion of economic well-being of communities, in the present and for the future. It is unclear whether the government (or the Courts) will see economic development as a "local public service" under the amended purpose of local government.
Q4.1	Have the right elements for making decisions about the allocation of regulatory roles been included in the guidelines? Are important considerations missing?	Yes, the key elements of cost/benefit analysis, information, capability and risk are covered in the guidelines.
Q4.2	Are the guidelines practical enough to be used in designing or evaluating regulatory regimes?	The guidelines provide a helpful framework. However, it will also be important to test the preferred approach that emerges by using the guidelines. For example, if the holding of information and organisation capabilities suggest a national standard is justified (e.g. for contaminated sites management), it would still be helpful to first test the proposed national standard at a local level to ensure it is workable. While a national standard for contaminated sites has been a sensible move, there are elements of detail in the provisions which are proving problematic in implementation and creating unnecessary costs on people wishing to subdivide or develop land. Seconding local government staff to central government to assist in policy development (option 1 in Table 7.2) would be helpful in this regard.
Q4.3	Are the case studies helpful as an indicative guide to the analysis that could be undertaken?	Yes, the case studies are particularly helpful, e.g. the Building Regulation example which identifies the challenge of fairly apportioning risk.

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Q4.4	Should such analysis be a requirement in Regulatory Impact Statements or be a required component of advice to Ministers when regulation is being contemplated?	Yes- practical examples are always helpful in improving understanding of the potential impact of regulatory powers.
Q4.5	Should the guidelines be used in evaluations of regulatory regimes?	Yes.
Q5.1	Do any regulatory functions lend themselves to specific grants? If so, what is it about those functions that make them suitable for specific grants?	Specific grants could apply in situations where central government requires local government to undertake significant public policy-making processes the costs of which can not be recovered through subsequent user fees. An example of this is the requirement in the Gambling Act for territorial local authorities to prepare a Class 4 gambling venues policy and a TAB venues policy. While the costs of applying this policy can be recovered from applicants, the substantial costs of the original policy-making process (and subsequent statutorily-required three-yearly updates) can not.
Q5.2	If general grants were to be considered, on what basis could 'needs assessments' be undertaken? What indicators could be used to assess need?	Population and relevant demographics, similar to those used for assessing the levy for the National Dog Database as formulated by the Department of Internal Affairs.
Q5.3	What would appropriate accountability mechanisms for funding local regulation through central taxation look like? How acceptable would these be to local authorities?	Any method of funding local government for regulatory functions imposed by central government is likely to be acceptable.
Q7.1	What measures, or combination of measures, would be most effective in strengthening the quality of analysis underpinning changes to the regulatory functions of local government?	Tauranga City Council is not best placed to comment on central government processes. However we would welcome any processes that allowed central government a better understanding of the consequences on local government when legislation is made. At present we concur with the Commission that central government's understanding of the consequences of legislation is weak (Commission's findings F4.1, F7.1, F7.2, F7.3, F7.4 and F7.5).

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Q7.2	What measures, or combination of measures, would be most effective in lifting the capability of central government agencies to analyse regulations impacting on local government?	See above.
Q8.1	What are the benefits and costs of cooperation? Are there any studies that quantify these benefits and costs?	The potential benefits of cooperation are broadly as set out in the Commission's document: economies of scale; access to skills and expertise; exchange and adoption of best practice; improved service delivery; and implied compliance with legislative standards. It should be noted that not all of these potential benefits will apply in any particular instance of cooperation, and not all of the councils cooperating will necessarily receive the same types of benefits or the same scale of benefits from any particular instance. Likewise, the potential costs of cooperation are as set out in the Commission's document: political risk; establishment costs; compromises in the delivery of local services; and loss of local autonomy. Again, not all partners in a cooperative situation will necessarily suffer the same types of costs or same scale of costs.

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Q9.1	Are there potential pooled funding or insurance style schemes that might create a better separation between councillors and decisions to proceed with major prosecutions?	The experience at Tauranga City Council does not lead us to think there is a need for a pooled funding or insurance style scheme. The Council has a strong customer focus where it puts effort into making it easy for customers to comply with rules (e.g. by education, information, warnings). Few enforcement matters find their way to the Court – these are usually where there has been indiscriminate damage to protected natural areas where remediation costs are high or cases where a person has failed to comply after repeated warnings. The budgets approved for enforcement work are generally sufficient for that reason, although if a case proceeds to a full hearing, costs can escalate – a situation we try to avoid if possible through dispute resolution processes. Council delegates the decision to prosecute to the Chief Executive Officer and senior staff. Legal matters, including enforcement and other proceedings are reported bi-monthly to Council for information.
Page 138	Does the involvement of councillors on independent hearings panels undermine the purpose of having such panels? Is it possible for a councillor to be independent in such decision-making?	The requirement under the RMA for hearings commissioners to be accredited and undertake the necessary training to fulfil that requirement has certainly assisted Councillors who sit on hearings to appreciate the quasi-judicial nature of consent hearings and the need to bring an independent perspective to bear. Councillors do of course participate in many meetings and processes run under the Local Government Act and the Local Government Official Information and Meetings Act. It can at times be a challenge for Councillor Hearing Commissioners to ensure there is no cross over between the two processes. This can add or remove the balance of formality needed to run an efficient and focused hearing.

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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?	The example given in the Commission's report is in relation to trade waste management. Trade waste management typically includes a trade waste bylaw and a set of fees and charges. Both these are subject to a public submission process annually and consultation is regularly carried out with dischargers. It is important that as far as possible the fees and charges represent the true cost of treating the relevant waste stream components. If the fees and charges do represent the true economic cost of dealing with waste then dischargers will make their own economic decisions to tailor their waste in order to minimise the combination of their own (internal) treatment costs and their trade waste and other (e.g. water supply) charges. Therefore it is held that such locally developed bylaws (coupled with appropriate fees and charges) are an effective method of managing waste streams at the overall lowest economic cost to the community while meeting required environmental standards. "Locally developed" is very important as waste streams, loadings and treatment processes vary widely. The statement that "bylaws that regulate access to council services being used to avoid incurring costs" should perhaps be re-stated in a positive sense as "a combination of locally developed bylaws and appropriate fees and charges, subject to public consultation, is an appropriate method of avoiding unnecessary costs either to businesses or the community." The relationship between supplier and customer has several strands. There is certainly a commercial relationship if trade waste charges are being incurred. Secondly there is the normal representative relationship between a business owner and the relevant local authority. This is seen as being representative rather than regulatory.

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Q9.3	What factors (other than the type of regulation most commonly experienced by different industry groupings and the size of businesses in these sectors) explain differences in the satisfaction reported by industry sectors with local authority administration of regulations?	It is difficult to answer this question without more information. One can only assume the differences in satisfaction are because different regulations / roles apply to different sectors. Surprisingly the 'wholesale trade' and 'finance & insurance' sectors appear to record a higher level of dissatisfaction than other sectors. These are not areas of high customer transaction activity for councils compared to sectors accessing liquor licensing, building and planning services.
Q10.1	Are risk-based approaches to compliance monitoring widely used by LAs? If so, in which regulatory regimes is this approach most commonly applied? What barriers to the use of risk-based monitoring exist within LAs or the regulations they administer?	Obviously those with a higher risk factor require more attention. Liquor licensing monitoring is based on potential adverse effects. For example, tavern style licenses receive more monitoring than restaurant style. Similarly a special liquor licence for a large scale event would receive more monitoring attention than a special liquor licence for a wedding ceremony (though both pay the same licence fee). The main barrier to further risk-based monitoring is resourcing.
Q10.2	The Commission wishes to gather more evidence on the level of monitoring that LAs are undertaking. Which areas of regulation do stakeholders believe suffer from inadequate monitoring of compliance? What are the underlying causes of insufficient monitoring? What evidence is there to support these as the underlying causes?	Some of the smaller LAs have insufficient levels of monitoring simply because of the costs of monitoring and the limited means of recovering costs. Often Bylaw offences will be monitored on a reactive basis rather than proactive. This is mainly because of the restrictions identified at question 10.3.
Q10.3	Which specific regulatory regimes could be more efficiently enforced if infringement notices were made more widely available? What evidence and data are there to substantiate the benefits and costs of doing this?	Local Government Bylaw offences. Summary prosecution costs are prohibitive and extremely out of proportion with offending. For example, a local bylaw may prohibit the keeping of roosters in a residential area. If the offender refuses to comply the only solution available is a summary prosecution with a fine not exceeding $20,000. The cost of taking such a prosecution through the Courts and the work involved would generally be around $5,000 and is unlikely to be recovered from the offender.

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Q10.4	Is there sufficient enforcement activity occurring for breaches of the RMA, other than noise complaints? If not, what factors are limiting the level of enforcement that is occurring?	In Tauranga City RMA enforcement action is largely driven by complaints. The main issue is insufficient information to determine if the natural environment is being adversely affected by unconsented activities. The limiting factors are: (i) suitable District Plan effectiveness monitoring and State of the Environment monitoring regime, and (ii) insufficient resource to develop and implement the first point and proactively monitor activities within the City.
Q10.5	Should the size of fines imposed by infringement notices be reviewed with a view to making moderate penalties more readily available? What evidence is there to suggest that this would deliver better regulatory outcomes?	Penalties have to be in proportion with offending. Failing to provide a date of birth under the Dog Control Act can result in an infringement fine of $750 yet appearing before the Court for an assault charge can incur a fine of $350. Enforcement staff are faced with increased hostility and offenders tend to take a defensive stance based on the principles of the fine rather than the offence. Experience has shown that when charges are defended and no defence is offered other than that the fine is considered unfair, the Court supports this by reducing the penalty.
Q10.6	Is sufficient monitoring of liquor licences occurring? What evidence and data exists that would provide insights into the adequacy of current monitoring effort?	The best way to gauge performance is by monitoring. Data that shows high levels of compliance (Police control purchase operations) indicates adequate level of monitoring. Experience shows that a low level of monitoring and enforcement results in low levels of compliance.
Q10.7	How high is the burden of proof for each kind of enforcement action? Is it proportional to the severity of the action?	In any circumstances the burden of proof should be fair and transparent (beyond reasonable doubt). The severity of enforcement action can have a significant impact on the livelihood of an operator.
Q10.8	Is the different 'gradient' in the use of compliance options because there are missing intermediate options?	There is an increased use of negotiated settlements which negates the need for expensive hearings.

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Q10.9	Are the more severe penalties not being used because there is insufficient monitoring activity by local authorities to build sufficient proof for their use?	No. Initial attempts are made to achieve compliance using a more non-regulatory approach (advice, education, support etc). The use of negotiated settlements is considered effective and a step before placing the matter before the authority. This would be gauged by the level of offence and the frequency of offending.
Q10.10	Why are relatively few licences varied?	Initial applications are vetted and the correct licence type and most suitable conditions are identified in the first instance. Most applicants will wait until renewal before varying licence conditions as this is more cost effective.
Q12.1	Is the very low number of consents declined best explained by risky applications not being put forward, the consent process improving the applications, or too many low-risk activities needing consent?	In Tauranga City's case a lot of effort is put into pre-lodgement meetings to ensure applications address relevant matters required to be addressed under the City Plan. This is a collaborative process where staff work with applicants to ensure better quality applications and a smoother path through the consent process. This also extends to working with the applicant and their consultants throughout the processing of the consent, often resulting in changes to a proposal and or further mitigation measures.
Q12.2	Would different planning approaches lead to less revisiting of regulation? What alternative approaches might there be?	**Plan Process** Tauranga City Council (TCC) is currently nearing the end of a long and expensive District Plan review process under Schedule 1 of the RMA. This second generation plan-making project has taken 5 years to date and there are still several outstanding policy issues before the Environment Court, which are preparing for hearing. By any measure this process of plan review and responding to changes in the legislative, social, cultural, environmental and economic conditions nationally and locally is very resource intensive (in terms of time and cost) and often adversarial. It is not efficient for a small country like New Zealand, and many of its Government parts, to have such a process tie up years of public and private resources. **Section 32 Analysis** In the process of this Plan review Council is required, as observed by the

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		Commission, to apply plan regulation only after assessment under Section 32 of the RMA. Hence, in theory, the main planning alternatives (methods) for implementing planning objectives are canvassed, and the 'most appropriate' chosen for the new Plan. However, the reality is that there is a myriad of issues and interests at play when a District Plan is reviewed, and those interests are often in tension with each other. A strict 'economic' efficiency aim of Section 32 cannot adequately address or solve these tensions, which also play out within a local political context or are governed by wider value-based policy decision-making set within other non-statutory planning documents or government policy documents. A lot of judgment is exercised in such a lengthy process. **Use of Planning Techniques – Zones and Rules** There is an implied criticism in this section of the Commission's report about the use of zones and rules. This is simply not warranted. Such techniques have been confirmed by the Environment Court as being a tool that leads to sound planning outcomes. We believe that the experience of nearly all councils in New Zealand over the 20 plus years of the RMA, is that this type of technique (and other similar planning approaches) are the most effective means of managing the effects of land use, subdivision and development over a wide range of local environments, having regard to a wide range of national, regional and local planning aims. It is this wide range of aims that leads to complexity in planning and planning outcomes – it is not the tool that creates this, rather such a tool simplifies planning process and flags where cumulative effects are expected. These types of techniques can manage a number of activities in a common (aggregated) way, within known or prescribed parameters, and with a level of outcome certainty. The Commission should not underestimate the amount of weight individuals and communities put on certainty of planning outcome, particularly but not only at local neighbourhood level and for business decision-making. In the experience of the Tauranga City Council (through two full plan reviews and numerous plan changes) these are relatively simple methods that are understood (or at least recognised) by the vast majority of people and communities. It is

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		recognised that different councils and communities may choose to apply such planning techniques in different ways, and that itself can be an issue, but that should not be seen as invalidating such techniques that provide greater certainties to planning process. **Central Government Regulation (NPS & NES)** The risk of further central government regulation in the form of National Policy Statements (NPS) or National Environmental Standards (NES) is that they will simply add to the complexity already inherent in the RMA business. The experience of this Council is that the NPS/NES to date have not been helpful in reducing complexity of regulation; quite the reverse, as they have to be interpreted and applied at a local level through a district plan after being established at a higher national level specific to a certain policy position or matter. This is not to say that NPS and NES are not useful; they can be. For New Zealand it is considered that there are benefits to time and cost for all parties involved to have such documents developed and used. NES should be used to apply to infrastructure issues or set scientific principles that set a quantifiable standard, for example to address all telecommunications facilities, or sea level rise or infrastructure standards. Where all local authorities are grappling with technical or scientific measures, the use of a well-prepared NES would be hugely beneficial. In these technical areas an approach of "more standards, less policy" would provide the consistency that all parties seek on these matters. NPS should be used specifically to set up guidance on the value-based issues that require community input and aim for consistency across the country; such as landscape, ecological and Maori/cultural heritage identification (as examples). **Applying Policy into easier Regulation** The key issue with all NPS is that policy, by its very nature, has to be transferred into a quantifiable or measurable plan provision by interpretation and even the recent NES 'standards' have not been easily measurable – again raising issues of local interpretation. The same applies to regional policy or even local policy matters.

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		It is noted that the Commission has queried how we might do better in this regard. The point to be made here is that if a plan provision is open to interpretation (another way of saying 'discretion'), then it cannot be applied at a permitted activity status level in a plan. The Courts of New Zealand have reinforced this principle many times. Rather, if discretion is to be used (for whatever reason) it requires a form of consent process to be applied. Again, the experience of this Council through two plan reviews is that it tries to capture as many day-to-day activities as it can within a 'permitted', prescribed environmental envelope, but there are many activities or circumstances that, on balance, are not appropriate for this technique. For example an area of high council activity where it has been found that the permitted technique is difficult to apply is that of subdivision. This is because most of the subdivision conditions applied respond to the circumstances of the subdivision, and conditions are applied with discretion to that local circumstance – again necessitating a form of consent process (compared to permitted). **Performance Based Approach** The Commission also comments in this section on a 'performance based' approach. This is well used by many Australian councils particularly for common buildings and land uses. Many plans offer either a performance approach or an alternative 'deemed to comply' set of standards. In the first type, it is clear that discretion / interpretation is required to assess the proposal against the performance element(s) in the plan, and hence it is normal for council consent to be obtained, with the usual costs and time factors. For the second type, this usually means that if a set of measurable standards or preset conditions are complied with approval is automatic. This second type really corresponds to the 'permitted activity' approach already used in most New Zealand plans, so there is no additional gain in applying such a process. Overall, TCC says that there is no easy answer to the increasing complexity of the RMA mandate set down by Government and of local environmental expectations. One way to reduce plan regulation is to get as many activities as possible within the permitted activity box, rather than those requiring a consent process which relies on

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		exercising discretion. Improving plan quality or techniques to prescribe in more detail or more precisely the environmental standards for a range of activities in a plan (as permitted activities) is the key to reducing the degree of regulation / process found in district plans. However TCC believes there is an inherent problem with the RMA itself and the issue (amongst many) of applying discretion compared to the prescriptive certainty required of a permitted activity. The RMA also has many value-based elements (such as in Sections 6, 7 and 8) that are not well suited to the relatively simple 'black and white' permitted activity approach. Therein lies a currently irreconcilable tension.
Q12.3	What factors have the strongest influence on whether a District Plan or Regional Policy Statement are appealed?	The Commission's observations about plan references compared to consent appeals is noted. The experience of TCC is that each of the two plan review processes (mid 1990s and late 2000s till now) generate around 900 to 1,000 plus submissions (well over 3,000 submission points) and around 50 subsequent appeals. Trying to resolve / mediate / negotiate appeals is where the greatest project impact on Council has been generated. There seems to be a lot at stake for some appellants. Interestingly, in this current review process, the majority of appeal topics are related to private interest matters (site specific or localised) rather than wider public interest, but those of wider public policy interest usually take significant resources to settle because of the range of positions by participants. Any measures that would restrict the opportunity to make 'private interest' appeals would clearly speed up the Plan-making process. For the latest review TCC produced a draft City Plan for informal submissions and reworked the notified plan from this feedback. However, the majority of parties used the formal submission process rather than the informal one, indicating that when a plan is notified people / interest groups suddenly focus and exercise their legal rights; with this often being to the detriment to the process and restricts parties working together early in the process to resolve matters (i.e. it sets up adversarial positions). TCC has also extensive experience in plan changes to the operative plan (both

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		council initiated and private). These tend to be more specific to particular policy or geographic areas rather than general public policy change, so the consultation and submissions and appeals tend to be more focused to the subject issue. Most plan changes have had at least some appeals. In the future the most likely policy approach for TCC will be to undertake appropriate plan changes rather than full reviews, as a means of responding to changes in national, regional or local policy conditions. Full reviews are extremely resource hungry under the current Schedule 1 process, and potentially not required. The message is that there is no one strong influencing factor on what is appealed. In terms of the Regional Policy Statement, because a district plan has to 'give effect to' an RPS, then logically once the RPS position has been settled, this should not be re-litigated at a territorial level; but that has happened on numerous occasions. The main issue here appears to be how the RPS policy is translated into the district plan framework. An RPS is, as outlined previously in this submission, a policy-based document which requires interpretation and it is the district plan process (or regional plan process) that translates policy into a specific rule-based system.
Q12.4	Overall, would it be feasible to narrow the legal scope of appeals?	It is the experience of TCC through the current plan appeal process, that there is scope to narrow the legal scope of appeals to reduce resource cost for ratepayers. The Council agrees with the general observation made by the Commission that many parties seem to 'keep their powder dry' in the initial submission and Council hearing round; either in the lack of specificity of the submission or lack of detailed evidence at a hearing. This area of current practice is, in TCC's view, where real gains can be made. Requiring detailed submissions, backed up by technical analysis up front by submitters would mean all appropriate detail required to consider such submissions is presented. Therefore, it allows a better quality decision-making process. Further, if appeals are to occur following that hearing process the scope of the appeal matter should be clearly articulated and understood; many appeals are deliberately worded in very general terms which is not helpful in defining / narrowing the real planning

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		issues and reasonable solutions. The low appeal lodgement fee also doesn't help but it does reflect democratic participation which is an important principle. In reality where significant development outcomes are at stake then higher lodgement fees would realistically not be a deterrent to an appeal. We consider the Commission should positively consider requiring independent commissioners to head and decide on plan submissions, but provide them with the ability to go through a line of inquiry process in cases where they determine that insufficient information had been provided at the submission phase. This may well add time to the process but would benefit decision-making and that could be offset by narrowing appeal scope. Restricting the legal scope of appeals in itself may not limit appeals being made; it may well just result in submissions being written in a way to ensure that an appeal right is retained should it be needed. Like the Commission, the Council would like to see a continuation of the emerging national debate on this issue prior to finalising the current RMA review. Incentivising more participation at the first submission and hearing stages brings with it a responsibility for better plan quality and proactive techniques for public engagement in plan formulation (pre notification) and then quality decision-making at the Council hearing stage; the later maybe needing greater formality than at present – which also comes at a cost. There is scope for improvement / innovation in both areas if the outcome would be a narrowing of appeal rights or removing a hearing *de novo*.
Q12.5	Would it be feasible to narrow legal standing?	See answer to Q12.4 above.

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Q12.6	What features of the bylaw-making process are distinct from the district plan-making process, and how might you use practice under the one to improve the process under the other?	It is unclear what the Commission has in mind in asking this question. It is recognised that both bylaws and district plan provisions are 'localised' regulation. However, the TCC experience in the use of bylaws under the Local Government Act (LGA) is that they are usually specific and very focused in scope and outcome (e.g. traffic bylaws or mobile vendors) and do not have the wider policy drivers or complexity inherent in the RMA based policy provisions. There are also different enforcement mechanisms. The attraction of the LGA process is its timeliness and relatively low cost compared to Schedule 1 RMA. Further, appeals relate to points of law and process rather than complex policy compared to the RMA. If the aim is to reduce the cost of regulation process (not the amount of regulation), then it is recommended that the Commission further explore lessons from the LGA submission process; one submission step, hearing and then Council decision legally reviewable only by judicial review, and see whether that is appropriate for the greater policy complexity of the RMA. The Council does not believe it desirable that the converse (RMA steps flowing across to the LGA) applies.

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Q13.1	Are there any other ways that local authorities include Mäori in decision making that should be considered?	In addition to the three ways mentioned by the Commission in its report (Maori Committees, joint management agreements, and statutory consultation) the following methods are used at Tauranga City Council or other councils: • including Tangata Whenua representation on joint Committees (such as the SmartGrowth Implementation Committee, or the Tauranga City Council / Tangata Whenua Joint Committee • requiring the mix of directors or trustees of council-controlled organisations to have "linkages with and understanding of Tauranga Moana Tangata Whenua" • appointing, as appropriate, independent hearings commissioners with an understanding and appreciation of matters relevant to Tangata Whenua • consideration of iwi / hapu management plans in resource consent matters • clear policy on how and when to involve Tangata Whenua in resource consent matters • maintaining iwi / hapu protocol agreements between Council and hapu outlining how the parties will communicate • elected members elected directly by Maori wards (Bay of Plenty Regional Council)
Q13.2	What are some examples of cost-effective inclusion of Mäori in decision making you are aware of?	The first six items above are all directly from Tauranga City Council's experience and are all considered to be cost-effective.
Q13.3	What more intermediate options could there be for including Mäori in RMA decision-making?	Early involvement (i.e. pre-lodgement) in major resource consent issues such as the Southern Pipeline ($100 million Council wastewater pipeline project) and the Tauranga Eastern Link ($400 million NZTA roading project).

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Q13.4	What are some examples of decision-making systems well-tailored to Mäori involvement?	Tauranga City Council has taken a proactive stance in its relationship with Tangata Whenua over the past decade. This has seen the establishment of a Kaumatua Forum, the Tangata Whenua Collective, the TCC/Tangata Whenua Joint Committee, and Tangata Whenua representation on the SmartGrowth Implementation Committee. At an operational level Council has established clear policies on: consultation with Tangata Whenua on resource consent applications; the monitoring of earthworks by Tangata Whenua; cultural impact assessments; the remuneration of external representatives (including Tangata Whenua) on Council committees; and, koha. Each of the above in different ways contribute to Maori involvement in Council decision-making. In addition Council has a dedicated Takawaenga Maori unit to facilitate relationships with Tangata Whenua and to maintain and monitor the implementation of the iwi / hapu protocol agreements.
Q14.1	How have local authorities used the Society of Local Government Managers guide on performance management frameworks – or other guidance material – to assess local government regulatory performance?	Tauranga City Council was represented in the group that developed the SOLGM guide on performance management framework. The principles in the guide have been applied in creating our own performance management framework covering all activity areas including activities with a regulatory role. It should be noted that neither the guide nor a performance management framework can be used to "assess" local government regulatory performance. The framework reports information about aspects of performance; it is up to the reader of that (and other) information to make the assessment.

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Q14.2	Is there a sufficient focus on regulatory capabilities in local government planning and reporting under the Local Government Act?	As the Commission's report states, there is no mention of local government's regulatory capabilities in the Local Government Act 2002. This in itself is not considered an issue - there is also no mention in the Act of local government capability in building and managing roads, water systems or other infrastructure, or of providing appropriate local public services. If the question is extended to *"should there be a focus on regulatory capabilities in local government planning and reporting under the Local Government Act?"* then the response is not necessarily. The Local Government Act is predominantly an enabling Act. As such, prescriptive clauses around ensuring certain staff or organisational capabilities is not in keeping with the rest of the Act. By amending the purpose of local government to focus on *"local infrastructure, local public services, and performance of regulatory functions"*, the government has made it clear where it believes local government should maintain appropriate capability. This does not need further legislative expansion.
Q14.3	Have local authorities encountered difficulties in dealing with different performance assessment frameworks across different forms of regulation? Which forms of regulation do a good job of establishing performance assessment frameworks, in legislation or by other means?	Tauranga City Council has not experienced any difficulties with the different performance frameworks applying to its regulatory work. The Building Act and Resource Management Act provide good examples of performance frameworks (e.g. the Building Consent Authority accreditation requirements and the RMA bi-annual survey). The requirement for a bi-annual audit of a Building Consent Authority is a particularly good example as it considers a range of performance measures both quantitative and qualitative.

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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 are the costs and benefits of these options? Are there other options in addition to those that the Commission has identified?	The best performance assessment system is one which facilitates regular dialogue and feedback loops between central and local government. For this reason we support the joint health check technique involving central government and local government staff working together to assess the effectiveness of regulation. The main cost for councils would be staff time. It may be useful first to run a trial and use this as a model. One useful example is the Metro Building Group facilitated by the Ministry of Business, Innovation and Employment. The group was originally proposed by the Metro Chief Executives group to have a strategic building group to meet on a regular basis with the former Dept of Building and Housing to discuss upcoming issues for their organisations. The joint working group continues to provide an insight into the needs of local government regarding any proposed changes to legislation, and also aids liaison with Local Government NZ and the Building Officials Institute of NZ. It would be helpful to take learnings from the Ministry for Environment's monitoring and review project once implemented to determine whether this could provide a model for other areas of central government. The option of encouraging central government departments to share administrative data with councils to assist in monitoring is supported. We do query whether there is an overlap sometimes in information gathering by departments. One example of this is the provision of quarterly building consent statistics to the Ministry of Business, Innovation and Employment when building consent statistics are also collected by the Department of Statistics on a monthly basis.

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R5.1	Regulations should be reviewed to remove specific fee amounts and make those fees at the discretion of local authorities, subject to the requirements of section 101(3) of the Local Government Act 2002.	Council **supports** the recommendation. The recommendation is consistent with our earlier submission to the Commission (question 29).