

HURUNUI DISTRICT COUNCIL

Submission to the New Zealand Productivity Commission

14 September 2012

CONTACT: Judith Batchelor, Manager Environmental Services
Hurunui District Council
email: judith.batchelor@hurunui.govt.nz
ddi: 03 3140102; cell: 0272551483

INTRODUCTION

The Council thanks the New Zealand Productivity Commission for the opportunity to submit on the Local Government Regulatory Performance Issues paper released in July 2012.

About the Hurunui District

For a general description about the Hurunui district, please refer to appendix one at the end of the submission. A map of the district is also appended to this submission.

HURUNUI DISTRICT COUNCIL SUBMISSION

We understand that the submission period was extended to 14 September 2012, hence sending this today instead of the formerly published deadline of 31 August 2012.

If there is an opportunity to do so, the Council wishes to speak to its submission.

The attached submission is set out in three parts as follows:

1. General comments
2. Specific answers to some of the 65 issues questions
3. Appendices (information about the Hurunui district)

SUBMISSION

General Comments:

The main point we wish to make strongly is for regulatory decisions to be made at an appropriate level and that the general principles of subsidiarity should apply. The issue of subsidiarity between central and local government is discussed by Treasury. The link below relates to a discussion which addresses the roles of the levels of Government in New Zealand and mechanisms for co-ordination between and within levels. Refer to the following web link:

<http://www.treasury.govt.nz/publications/research-policy/wp/2002/02-03/05.htm>

We believe and support the setting of national standards, but want these to focus on setting broad frameworks so that policies and procedures can then be made fit for purpose at a local level. National standards need to be flexible enough to enable local authorities to set its own rules according to what is happening within that local area or district. We believe that this is a principle point in going forward.

By way of example, the New Zealand Drinking Water Standards is a case in point. Standards have been set and we support the direction these standards set. Our council has been provided with the flexibility and discretion to determine how to meet those standards. (The cost of meeting the standards is another matter addressed below.)

We experience pressure when regulations are imposed from central government (top down approach) as opposed to receiving pressures from our communities to establish regulations. The particular circumstances of different rural communities have different needs.

We support growth and development within our district but have challenges in meeting this desire. New business owners need certainty around constraints to business, and want to know how new standards and regulations being introduced will affect business. Business owners are unable to influence the content of new regulations. The burden of regulation is a major impediment to small business owners embarking on new ventures. Current regulation is a one size fits all with no flexibility, doesn't recognize the specific circumstances in each community. There is dependency on us to review and submit on new regulations that may affect its ratepayers.

Developing our own regulatory functions is attractive and advantageous to economic development of the district. Central government is trying to restrict councils to core business but simultaneously forcing costs imposed through regulation. We provide services that are a social necessity and fit with the circumstances of our own communities and attempt to keep costs low or cost neutral now. But we still face huge costs through indirect taxation, for example, playing music in halls. We would strongly encourage that local government is able to make its own decisions.

There are consequences if central government gets national standards wrong. For example, there have been disastrous consequences with the Building Act (leaky building syndrome). Local decisions may be better or worse, but won't create a national calamity. We support guidelines with the ability for local authorities to apply discretion and judgment to fit their own situations. Decisions made at the most appropriate level devolve decision making down. The Council supports the principle of "subsidiarity" that is that matters should be handled by the smallest, lowest, or least centralized competent

authority. This is a “closer to the people” level of developing and implementing regulation.

There are complex overlays of regulations including laws, policies, plans, Treaty of Waitangi and regional plans. The community finds it difficult to understand the complexities and overlaps of all of the layers of regulations. For the Hurunui ratepayer, there is a maze of conflicting regulatory environments.

Hurunui District councilors are nonpolitical. They have a genuine interest in the wellbeing of the local community, not because they have a particular political viewpoint. This makes us vulnerable to government policy because we are unable to influence through political alliances. Central government politicians can make decisions that are not well supported, for example, asset sales, and still survive politically, however unpopular decision by local councilors will see them thrown out at the next election. Central government devolves functions on local government and then subjects them to audit costs.

Central government has a team of advisors to support development of policy and interpret regulation. We do not have the same access to resources without incurring major costs to the ratepayer. Most other local authorities would be in a similar position, relative to the size of their district or city.

Ideally, central government should set the scene in terms of what needs to be done, and local government should be able to apply its own decisions to meet that direction. The question has to be asked whether this is a matter for central or local government or whether private enterprise can be involved with an audit process to oversee the effectiveness. For example, vehicle warrant of fitness's are designed nationally but delivered through private businesses such as local garages. The new Alcohol Bill provides for Local Alcohol Policies to be developed by each Local Authority development policies in relation to the sale of alcohol which are relevant to the local community.

Increasingly it is difficult to modify national standards to fit local circumstances and conditions. Policy developed locally is accepted locally. Not the same can be said of nationally imposed legislation. There are a number of ways to achieve national objectives but local communities must be able to decide what suits them. Set national standards and then work together to give effect to national standards. Imposing regulation needs to be a progressive process, particularly when dealing with high priority matters such as drinking water standards. Due to cost, complexity to resolve and working with local communities, more time is required to work through the issues and solutions.

Central government can greatly assist using the drinking water standards example, through funding for drinking water design and implementation. Although central government has set the design and implementation programme, the funding to provide this or to meet the standards is totally inadequate. The financial impact on small communities is unacceptable. For example, in our district, most of the drinking water fails to meet the new drinking water standards and we have 8 communities on permanent boil water notices. Whereas we are in full agreement with the drinking water standards, the challenge for us is the funding issue and the length of time our communities will be paying the cost. In today's dollars, the upgrade will cost \$14 million and a further \$484,000 annually solely to operate the upgraded schemes. To pay for

this, the upgrades will not occur until 2024 to 2027. An interim measure is going to be phased in this year at a further cost of \$758,000 to chlorinate the water and eliminate all boil water notices. We simply cannot afford the upgrades until we have built up funds from all of the district's ratepayers from 2015, almost 10 years before the first of the upgrades occur.

It would seem that community life is increasingly regulated and becoming a prescriptive society. This undermines the ability for communities (local councils) to run its own affairs to set its own standards through its own voluntary arrangements. We recommend that government departments avail themselves to enable easier processes for assistance to help with the interpretation of legislation and national policies, and advice generally. This would eliminate the need for costly legal fees locally.

Responses to specific questions:

Question 1:

Land development for housing or urban purposes causes us concern. It entails a great deal of consideration as often multiple Acts, legislation and/or policies are involved, and at times, other authorities are also involved as they administer different aspects of land development. The types of regulatory factors that need to be considered include our own district plan, environmental regulations imposed by the Regional Council (eg: floodplain limits, landscapes, drainage, contaminated sites, etc), Building Act rules, roading and access measures required by transport authorities, local Runanga and sometimes other authorities such as health, and Department of Conservation to name but a few.

In addition, because land developments usually involve large sums of capital, delays caused by us or any other agency involved contributes to increased expense in addition to development contributions. To provide a local example, building a house in one of our very small townships, Leithfield (within the Amberley Ward) could require consideration of the following types of regulatory processes:

- consideration of district plan setbacks
- zoning
- access limits
- reserve limits
- building act standards
- council inspections
- regional council impositions on home heating for air quality
- flood risk
- risks due to the nearby Kowai River
- land transport rules regarding access to the State Highway

We would welcome a focus on streamlining and simplifying these requirements by enabling a “one stop shop” for applicants through the delegation of responsibilities. In doing so, it would need to be clear references and explanations of the role of other agencies.

Question 8:

Councils have a more personal and closer interface with its own communities. The smaller a local authority, the closer the relationship tends to be, particularly the areas which are outside urban areas. Our district is predominately rural and our councilors usually well known to their local communities and held directly accountable by the public. Councilors in the Hurunui do not tend to take the role on for financial gain, but to serve their local communities and promote positive change. For example, our councilors are paid only \$16,000 average per annum. The larger the community (typically in cities), the more likely the local councilors are to be anonymous. Consequently, the “local” council in a district such as the Hurunui, is far more in contact with local concerns and desires.

One of our current councillors was a councillor for the Canterbury Regional Council and represented North Canterbury. He found when door knocking in the northern suburbs of Christchurch, that there was a high level of ignorance or indifference to the work of the regional council. By contrast, as a Hurunui District councilor, he is often asked about Council matters in the street by local residents. This personal interaction by our councilors means that the Council as a whole does reflect local preferences which can lead to regulatory variation. This in turn tends to lead to better public co-operation and outcomes and Council's decisions are accepted more willingly and paid for through local rates.

Our regulatory activities have controls which are specifically designed to respond to the needs of individual communities and are considered important to them. For example, vehicle patrol on local beaches, stock crossing roads, Dog Control Bylaw and Policies controlling exercise areas for dogs and registration fees at a level which is relevant to our community. The regulatory activities which are imposed through national standards or rules are deemed to be less important as their generic design does not necessarily meet the specific issues or circumstances for our district. Local authorities need to be able to make and enforce regulatory provisions which are developed by and for their own communities.

Question 9:

There are conflicts, particularly where aesthetic or personal judgment values apply. For example landscapes; recreational use versus environment conditions; or to what extent do we impose a financial cost for biodiversity benefits. Rigorous national or regional standards which are not important or seem out of proportion at a local level contribute to the distrust of government at all levels. This is especially so when the impositions and the accompanying arguments and costs come from outside the area affected. If the focus is on achieving the community desired outcomes, the co-operation and understanding of the local community is essential.

Question 10:

We have experienced public backlash against the Council due to the way regulatory powers have been exercised. We still bear the negative consequences of the way we imposed controls on significant natural areas (SNA's) in our district plan years ago although we have long since moved to a voluntary approach to biodiversity protection. The issues were essentially about process and the way affected people felt they had no control over their own land but were being dictated to by the Council rather than being against conservation or sustainability.

Question 12:

The Hurunui district has two local Runanga but neither of them is actually physically based in Hurunui or have a marae in the district. The Hurunui district has a low Maori population and the local Runanga are stretched for resources. This results into a fairly low participation rate by Maori despite invitations to be involved in regulatory processes (such as resource management consents, plan changes, consultation processes etc). However, there is participation in the areas considered to be most important, such as water and coastal issues.

Question 17:

The collaborative approach used by Canterbury Regional Council with the Canterbury local authorities in the development of the Canterbury Water Management Strategy has been lauded. In addition, there are other examples such as the AgChem collection which came through the Canterbury Joint Waste Committee, and the Northern Pegasus Bay Coastal Access Strategy which involved collaboration between the Regional and District Councils, other authorities, and local representatives. Our Council is working towards the conclusion of a Waipara River Strategy through a collaborative group of interested parties which includes local recreational groups, Department of Conservation, Bird and Forest, four wheel drive clubs, and others. Although this has been a lengthy process, it has been essential that the final strategy was bought into by all parties concerned. We are confident that the slow but collaborative approach has been the best way to reach an outcome all parties can abide by.

Question 20:

We consider the main reason for deterring innovation in local government is the fear of costly litigation if something goes wrong. Councils are an easy target through existing legislation and the Resource Management Act and the Building Act are prime examples of this. This creates a 'risk adverse' environment and one where legal advice is often used to be safe before decisions are made to measure the risk. Innovation is more likely to be used for 'softer' council activities (such as community development and libraries). In some cases it is not the council's lack of innovation, but the intervention of pressure groups or outside agencies which is the deterrent. This can also create substantial costs if challenged through judicial process.

Questions 21, 22, and 23:

Good government regulations depend on the support and comprehension of their communities. We believe that in the main, this is best achieved at a local level, accepting that some measures and standards will still be instigated at a government level. The closer to the local level usually results in being both understood and accepted by the local community depending on the matter under consideration.

We have ranked some of the factors shown in table 4 and included our comments. '5' is the most important, '1' is the least.

Rank	Factor	Why each factor might be important in deciding where a regulatory function is located
5	Innovation	Encouraging innovation is an important factor in deciding where a regulatory function should be carried out.
5	Preferences	Taking people's preferences into account is an important consideration.
3	Economies of scale	Cost savings from spreading overheads over greater output is desirable as long as this does not negatively compromise preferences being taken into account.
3	Economies of scope	Cost savings from doing activities together rather than separately are desirable as long as the activities are still relevant to the local communities.

3	Externalities	It might be important that externalities that extend across local government boundaries can be internalized.
3	Information	Good information is needed to design and administer regulation and might be an important consideration in deciding where to locate a regulatory function.
3	Regulatory consistency	Reducing compliance costs by ensuring consistency of approach across jurisdictions is an important consideration when it does not compromise local communities through a one size fits all approach.
1	Competition	Competition between regions seems an irrelevant factor when dealing with regulatory functions.

Question 25:

There is at times duplication between regional and district council responsibilities, and with other levels of government or agencies. To a ratepayer or taxpayer, this is confusing, frustrating, costly and unethical. For example, a clearer direction as to who has the mandate to draw up regulations on such matters as landscapes or heritage sites would assist the process and would not deny any of the other entities participating as submitters, along with everyone else involved. The Resource Management Act has been in force for 20 years and has an emphasis on regional responsibilities. It is timely to review those responsibilities. Since then, regulation and enforcement has been established and there is more direction through more national standards and policies, as well as a central government environmental authority. Guidance from case law and a heightened public awareness means we are operating in a very different set of circumstances now. Rather than remove regional councils, a review of the statutory responsibilities may result in less bureaucracy, and some simpler processes which cost less. Better collaboration between local authorities and agencies and less opposition should produce better outcomes through less antagonism and stress to all parties.

Question 28:

Legal and consultancy costs incurred by our Council have continued to increase because of our regulatory responsibilities. Recent examples include:

- Defending MainPower's resource consent for a wind farm on Mt Cass. The cost to ratepayers was approximately \$300,000 after allowing for the successful costs award against MainPower from the Environment Courts of \$136,000. As well as the monetary cost, this has been an extremely complex situation requiring many, many hours of staff time and significant effort by our Council.
- A global stormwater consent application for the Amberley Ward was lodged in 2008 and due to ongoing appeals, the cost of defending this thus far is close to \$300,000.
- Closed landfills in the district have consent conditions which are required to be regularly monitored. This comes at an ongoing cost of engaging consultants to do water testing despite the fact that there have been no irregularities in the water tests in the past 10 years.

The pending requirement for each hearing panel commissioner (under the Resource Management Act) to be qualified is too stringent and will cost some councils more for professional commissioners. Non-qualified councilors could participate alongside a

qualified chair and one other qualified councilor without any risk to the process and thereby provide a panelist who is recognised by the affected community.

Question 34:

Our examples of regulatory cooperation and coordination between agencies include:

- The Canterbury Water Management Strategy is working to establish its regulatory framework through collaboration between water users, recreationalists, government agencies, conservation interests, regional and district councils, Ngai Tahu, and landowners. After an initial slow start to the process, the project has accelerated substantially through collaboration with other parties and now highly regarded for its achievements thus far.
- The Agchem collection in Canterbury came from a Joint Waste Committee bringing together district and regional representatives who agreed to share costs and instigated a process to engage farmers. Again, this initiative has been regarded as highly successful.
- The Canterbury Biodiversity Strategy emanated from the Canterbury Regional Council with active engagement and collaboration with district councils, Department of Conservation, Ngai Tahu, recreational groups, and farmer owners. Although there was not full agreement to the strategy, all parties showed support for the process and participated constructively.
- The Northern Pegasus Bay Access Strategy was a joint initiative between our Council, Waiamakariri District Council, Department of Conservation, Runanga and local residents in a working group. This has resulted in good outcomes and an agreed process for the future.
- We have been involved with other parties to develop strategies for users of the Waipara River. The need for a strategy came about because recreational access caused conflicts with other parties who did not agree to their usage of the river. This has been a difficult process because of widely opposing views, but the commitment of all parties has resulted in a way forward with full agreement.

All of these processes began with adversarial views and problems which seemed insurmountable. These collaborative processes take time and a lot of voluntary input, but if a consensus can be achieved, there is a much better outcome as affected people understand why restrictions are needed and are more likely to comply with the decisions made. For example, despite restrictions to certain activities through locally developed procedures, the four wheel drive clubs hold days where they pick up rubbish on the Pegasus Bay beaches. By contrast, when applying 'blunt' regulation, there is a stronger likelihood of litigation, confrontation, and mistrust of councils.

Question 35:

Coordination is appropriate in certain situations and where core values are central to the matter of concern. People are expected to accept rules where public safety is at risk and rules are put in place for the good of the public (for example, building safety standards, traffic rules or flood protection). However, when the issue is more subjective and personal preference or perspective is involved, coordination is helpful and can lead to better outcomes. For example, perspectives on heritage or landscapes can vary enormously –beauty is in the eye of the beholder after all. Recreational use and public access may threaten ecological values, the enjoyment of solitude, or the privacy of

landowners. In these circumstances, there is much to be gained from learning to accept differing viewpoints, coming to respect adversaries, and exploring compromises.

Question 36:

Participation by those affected is necessary and trust between parties developed so that the leadership is open minded and a fair framework is developed. Depending on the issue, there is a variety of factors involved for successful regulatory coordination. Such as informed presentations of relevance, field trips, all parties treated with respect, opportunities for fair hearings, and importantly, enough time and scope provided to allow a desirable outcome. Council needs good, professional staff support and voluntary contributions of time and effort by participants is considerable.

Question 38:

Concern about protecting own areas (patch protection) can be a problem, where personal standing or institutional control/ownership is put ahead of finding the best outcome. Personalities can at times cause barriers. For example, senior staff with rigid, inflexible interpretations of legislation can be difficult to overcome if that view is supported by the head of the institution.

Question 39:

Our council is reviewing our district plan. In doing so, we have a deliberate and close relationship with the Canterbury Regional Council and Waimakariri and Kaikoura District Councils to more closely align all of our district plans. This is strongly supported by our councilors. There are significant differences in the three North Canterbury councils due to differing physical factors, distance, differing economic activities, and social and cultural reasons but see benefits in aligning some of our rules for the benefit of our communities.

Question 42:

District plan variations and changes can be used to improve areas of concern during the lifetime of the district plan, and Plan reviews provide an opportunity to revisit problem areas, laying out clearer thresholds and conditions for consent approval. Pre-hearing meetings and mediation can also provide focus on the underlying or serious issues, and reduce hearing costs.

Question 46:

Our councilors are not involved in the administration of our regulations except the setting of policies and approving regulations. Councilors are involved in the enforcement of regulatory matters, for example, when there is an objection to the paying of a fine or decision made by council staff. Council meet and make a decision on whether or not the objection is valid.

Question 47:

There is extensive consultation which is not always welcomed by the public and organisations who complain about being “consulted to death,” or worn out, by the amount of Council proposals and decisions they are expected to respond to. Contrary to working collaboratively, consultation is at times done simply because legislation requires it when we expect there to be little interest.

Question 60:

Comparison between councils certainly helps set standards for best practice, but may not reflect local circumstances beyond a council's control e.g. staffing issues, adverse events, and unique physical features such as steep mountainous country compared to flat plains, cultural issues reflecting not only Maori tribal circumstances and complexities, but also consideration of substantial immigrant population in some urban areas etc. There are some issues which a comparison with appropriate overseas data would also help measure efficiency.

Q.62:

Grouping like councils together for comparison has some value, but there are many variations in circumstances to apply many factors across the whole country. Urban councils should be compared to each other as should predominantly rural councils. However there are many peri-urban or mixed cases which may require assessing on a different basis.

Question 64:

We do not consider that adding any other performance measures are necessary.

APPENDIX 1: About the Hurunui District

Income: \$30.1 million (2012/13)

Expenditure: \$30.3 million (2012/13)

Capital: \$10.8 million (2012/13)

Location: The Hurunui District is in North Canterbury, on the east coast of the South Island, New Zealand (see appendix).

Land Use: Predominantly rural.

Area: 864,640 hectares (8,646,400,000 m²).

Climate: Ranging from unique coastal micro-climates to alpine climates.

Population:

The estimated total population for the Hurunui District is **11,330**, distributed between the five wards. The population of the Hurunui District is predicted to grow steadily over the next 20 years, although the population of some towns in the district is dropping. The greatest proportion of growth is occurring in the Amberley and Hanmer Springs wards. Census data reveals that the Hurunui District has an aging population, and shows a steeper rise than that predicted for the country as a whole in the proportion of people aged 65 and over. Ethnic diversity is lower than that of New Zealand as a whole, but there has been a marked increase in overseas migrants, especially in the 30-50 year old age group (indicating that they have come to work in the District).

Regulatory Functions:

Landuse and subdivision, building consents, earthquake prone building policies, liquor licensing, food premises registrations, fencing of swimming pools, dog control, animal control, noise control, litter control, gambling, rural fire permits, reserve management, road naming and numbering, bylaw controls.

Industries:

The Hurunui is continuing to experience growth and diversification in terms of industry. Historically the district has been primarily agriculture based, and this still continues to be the single largest contributor to the Hurunui economy. However, recent times have seen an expansion in both viticulture and tourism. The growth of Hanmer Springs, the district icon, as a tourist destination and the establishment of associated infrastructure, is unprecedented in the tourism sector New Zealand wide. The majority of the district's working population is employed in the "agriculture, forestry or fishing" industries (as defined by Statistics NZ). The second largest employment industry category is "accommodation, cafes and restaurants", followed by "health and community services".

Agri/Viticulture:

According to the 2007 Statistics New Zealand Agricultural Production Census, the Hurunui District is home to 1,065 farms, 462 of which are sheep farms (total of 1,612,116 sheep), and 130 of which are beef cattle farms (with 119,141 cattle). 53,099 dairy cattle and 34,042 deer were counted in the Hurunui District. The major horticultural activities in the District are grape-growing (970 hectares), followed by olives

(87 hectares) and hazelnuts (25 hectares). There is a small vegetable harvest in the Hurunui District (e.g. asparagus), and we produced 9,679 tonnes of barley, 3,852 tonnes of wheat, and 556 tonnes of field/seed peas during the year ended 30 June 2007.

Development/Growth:

The Hurunui around agriculture, viticulture and tourism. Both domestic and international tourism have increased significantly over the past decade in recognition of the wide array of recreational opportunities within Hurunui from the coast to the mountains. The Hanmer Springs Thermal Pools & Spa, Mt Lyford Ski Field and Waipara wine producing area are recognised as anchor destinations that have been a catalyst for business investment in the District. Statistics New Zealand has estimated the Hurunui population at 2026 to be 12,350 on a medium growth projection. However because of a large absentee population owning lifestyle and holiday District has a highly diversified economy based homes, the Council is planning for growth demands based upon trends in subdivision developments, and, upon this basis, indications are that district wide growth will be slower than what is indicated by the Statistics New Zealand projections, but the Amberley and Hanmer Springs Wards are more likely to be at the medium or even high growth rates.

APPENDIX 2: Map of the Hurunui District

