

13 September 20102

Steven Bailey
Inquiry Director
Inquiry into Local Government Regulatory Performance
New Zealand Productivity Commission
PO Box 8036
The Terrace
WELLINGTON

Dear Steven

Submission to Local Government Regulatory Performance – Issues Paper July 2012.

In accordance with Council resolution 12/251 from a recent Council meeting, Councillors Carmine and Milner have been given delegated authority to prepare this submission to the Local Government Regulatory Performance Issues Paper on behalf of Hauraki District Council. This submission is written in conjunction with and additional to the Local Government New Zealand's submission.

The Hauraki District spans from the Kaiarau (Seabird) Coast to the north along the reclaimed, rich dairy lands of the Hauraki Plains which border the Firth of Thames, and then onto the rugged Karangahake and Kaimai/Coromandel ranges before reaching the Golden Valley farmlands in the northeast and the Pacific Ocean at Whiritoa. The Hauraki District has a population of around 18,750 and it is a relatively small territorial area, although it is geographically very diverse. The District covers an area of 1,269 square kilometres.

The three largest urban centres in the District are Waihi, Paeroa and Ngatea, and the District also includes a number of smaller townships including Turua, Kerepehi, Mackaytown, Waikino and the coastal communities of Whiritoa and Kaiarau. The Hauraki District has three Wards Paeroa, Plains and Waihi and does not have any Community Boards.

There are a number of key industries established within the Hauraki District. The District has a rich pastoral farming history, with a significant number of businesses supporting and servicing the farming industry. Mining is another key industry for the Hauraki District, with the well known open pit Martha Mine in Waihi town centre, along with a number of underground mines, located on the doorstep of the township. Manufacturing is also a key industry in the District. Tourism is a steadily growing industry for the District, with Hauraki being home to a number of tourist attractions including the recently established Hauraki Rail Trail, the Karangahake Gorge and the Seabird Coast.

In reviewing the Issues Paper we would like to highlight the fact that Local Government is better positioned than anyone else to respond promptly to its communities needs and aspirations. Current examples of this are in regulatory functions such as liquor licensing, dog control and bylaws generally to name but a few. While these responses can take some time as they observe the necessary legal requirements they are very much quicker than that of Central Government's response. This means that for issues that are different in each community because of demographics, social structure and other local differences, Local Government is in a much better position, not only to know its community better, but to react promptly and appropriately to its needs.

Central Government also has the difficulty of defining regulatory needs/requirements to cover the many circumstances that apply on a national basis. However, local government can use the tools given to it by central government to modify regulatory requirements to suit purely local needs. This must be seen as a great strength in the central government/local government statutory roles.

We submit this submission for your consideration

Yours sincerely



p.p.

Mary Carmine
Councillor

Paul Milner
Councillor

Hauraki District Council

Local Government Regulatory Performance Productivity Commission Issues Paper - July 2012

Key response points from officers and elected members in addition to LGNZ submission to some of the 65 questions provided.

The Commission's approach
<p>Q1 What is the relative importance of the range of the regulatory activities local government undertakes?</p> <p>The importance of the range of the regulatory activities is based on meeting the individual needs of a community that allows the community to function in an orderly manner without creating a nuisance to a neighbour or the environment. The nature and scale of regulatory intervention will vary from District to District based on many factors and hence there are many regulatory methods better defined, modified and implemented by their local authorities for their local communities within the regulatory framework defined by central government.</p>
<p>Q2 What are the main economic, social, demographic, technological and environmental trends that are likely to affect local government regulatory functions in the future?</p> <p>There are many factors that determine whether an issue is localised; or affects the region or nationally depending on the issue. Population growth, socio-economic factors and local responses are but a few of the influential factors in this area.</p>
Local government and regulation
<p>Q5 Are there any other local organisations with regulatory responsibilities that the Commission should consider?</p> <p>As part of the early Long Term Planning process local authorities worked with a number of other agencies to achieve certain community outcomes and they still exist today; such as the Police with liquor licensing outcomes and the Area Health Board with gambling legislation outcomes to name but a few.</p>
Regulatory variation
<p>Q6 Do the different characteristics and priorities of local authorities explain most of the difference in regulatory practice across local government?</p> <p>In addition to what has been stated by LGNZ the different regulatory practices will also be based on the different needs of the community, resourcing and levels of service often determined in conjunction with their community as part of the Long Term Plan and Annual Plan processes. An example of the differences would be a prevalent problem with dog control in a large Council may require the issuing of Infringement notices in the first instance; whereas for the same issue in a smaller local authority the same compliance level can be achieved by employing a warning system first to the offending dog owner before any infringement notice is required.</p>

Q7 Are community expectations to 'do more' about social issues leading to different approaches to regulation between local authorities?

Community expectations that local government will get involved in some matters are partly driven by central government directions in the Local Government Act and delegation of regulatory powers to local government, as opposed to a desire from the community for local government to necessarily be involved. Once local communities are involved in decision-making it is likely that different approaches will result to achieve similar outcomes based on individual community expectations and needs.

Q8 To what extent are local preferences a source of regulatory variation in New Zealand? How far should councils, when implementing a national standard, have discretion to reflect local preferences in their bylaws?

National standards are required for national issues and for the requirement that central government needs to define the framework in which it is happy for local government to work within in terms of local responses. National guidance on issues like making bylaws needs to be established to ensure issues like the Bill of Rights are not being breached; however the methodology of implementing those bylaws will vary from District to District based on community need and the most effective method of achieving the outcomes that the bylaw has been established to address.

Q10 Does the way in which a local authority chooses to exercise its regulatory powers – through bylaws or through its District Plan – lead to differences in effectiveness and outcomes for communities?

In regards to bylaws the special consultative procedures exercised as part of the process of making Council's Policies and Bylaws provides for differences based on community needs and circumstances to achieve the best outcome for that community. This bylaw outcome would not be achieved if it was a national law that did not take into account those individual community needs.

In terms of the District Plan there will be common themes throughout all the District Plans appropriate to the different zones within the Plan. Unfortunately Regional Councils take the words "integrated management" and "give effect to" under the RMA could mean that they can undertake District Council landuse planning and we could have unnecessary duplication if it is not managed correctly. These areas require greater role clarification.

Local government is obviously accountable for its decisions and these are tested, as are central governments, through a triennial election cycle.

Q11 In what ways has the Treaty of Waitangi influenced how local authorities have undertaken regulatory functions delegated to them by the Crown?

Q12 What does this variation mean in practice – for Māori, the local authority and for the regulation of the resource?

In terms of the Local Government Act the Government has made it clear that local government is not a treaty partner and central government will legislate for any partnership matters it wants addressed by local government including matters such as consultation, capacity building, recognition etc.

We are currently involved in the Iwi Settlement process between and the Crown (Office of Treaty Settlement) and various Hauraki Iwi and this will likely create another regulatory requirement or another step in the processing of Resource Management Policy and Consent application responsibilities for activities that affect Rivers and their catchments in our District. This will vary from District to District as different Iwi have different requirements in terms of their relationship requirements with various decision makers. From experience variation for Maori will occur as different Iwi respond differently to consultation requests etc depending on their different priorities and resourcing.

Q15 Do these inconsistencies impose extra costs on businesses? If so, are these extra costs significant?

In relation to Iwi input into Resource consents there will be extra costs on applicants and Council. This is part of the co governance arrangements that will be agreed to between the Crown and Iwi. These costs will need to be accommodated as part of Iwi joint management agreement or joint committee arrangements and associated administrative costs in establishing these co governance arrangement costs could be significant for local government.

Who should regulate?

Q21 Has the Commission captured the advantages and disadvantages of centralisation and decentralisation for each of the factors?

Q22 Which of the factors discussed in this chapter are the most important for allocating regulatory functions locally or centrally?

Q23 Which other factors might be important for considering whether a regulatory function should be undertaken locally or centrally?

Q24 Are the factors discussed above helpful in thinking about whether a regulatory function should be relocated?

Q25 In the New Zealand context, are there regulatory functions that need reconsideration of who (central, local, community) carries them out?

Overall response:

Local Authorities are best placed to undertake regulation for their communities once the outcome framework and methodologies have been established by central government. They can respond promptly to their community's needs and aspirations. Examples of this are in regulatory functions such as liquor licensing, dog control, bylaws to name but a few. While these responses can take some time, as they observe the necessary legal requirements, they are very much quicker than that of Central Government's response. This means that for issues that are different in each community because of demographics, social structure and other local differences, Local Government is in a much better position, not only to know its community better, but to react promptly and appropriately to its needs.

Local Authorities do take into account and have regard to any national guidelines such as National Policy Statements in the RMA in the formation of their District Plans; but again the Plan will also achieve the National Policy Statement in a way that best reflects that community and environment within the framework established.

E.g. One of the functions that have now come under central government agency is under ERMA. The provision of information in the register of hazardous substances being made available to local authorities for their responsibilities under LIM's, Civil Defence and Contaminated sites is now very limited compared to what was available when this HSNO function was being undertaken by local authorities.

Q26 Do local authority significance policies allow for adequate consideration of the present and future costs and benefits of local government regulation-making?

Q27 - Does the local government regulation-making process lead to good regulation? If there is evidence to show that it does not, how could the process be improved?

Overall Response.

In addition to what has been stated in the above paragraphs local authorities are best placed for local solutions to local issues. Enforcement of food safety legislation in the past has not always achieved the desired food safety outcomes without incurring significant cost.

The advent of local authorities using local solutions such as food grade bylaws where food grades are published on websites and shop windows for consumers to see has lifted the food safety standards in those areas where it is applied without a huge cost to the enforcement agency.

Also different approaches in regulations need to be tested first for the best outcomes before made into regulation as part of the Select Committee process. For example prescriptive based legislation may be more appropriate in the Building industry to achieve building code compliance; whereas performance based regulation is more appropriate to achieve environmental outcomes under the RMA.

Q34 Can you provide examples of regulatory cooperation and coordination between local authorities or between central and local government, and describe successes and failures?

Local authorities are involved in collaborating regarding best practice and staff resourcing in

- **Health regulation cluster group**
- **Building regulation cluster group**
- **Liquor Liaison with external agencies like the Police and Health**
- **Shared Services with other TAs e.g. solid waste collection services**
- **Combined responses to RMA policy initiatives.**

This sharing of services can provide some consistency in implementation if required and can provide the most suitable level of service for the least cost when most appropriate for that type of service.