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New Zealand Productivity Commission  
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Dear Sir/Madam

**Inquiry into Local Government Regulatory Performance - Submission to Productivity Commission Regulatory Performance Issues Paper**

Thank you very much for the opportunity for the Southland District Council to comment in relation to the above. The Council's submission on this Issues Paper seeks to comment on key matters of significance, rather than comment on all 65 of the questions posed.

The Council notes the purpose of this process as described in the Issues Paper is as follows:

*"The Commission has been asked to develop principles to guide the allocation of regulatory functions between levels of government, and to identify functions that should be reallocated to a different level of government. Responsibilities for relevant regulations are fragmented across and within local and central government. This can reduce the coherence and coordination of regulatory activity, particularly where different levels of government are responsible for similar regulations. As well, this fragmentation and complexity may undermine the capacity of central and local government to administer regulations. Both of these issues can lead to gaps, inefficiencies and poor outcomes (OECD, 2012). The Commission has also been asked to identify opportunities for both central and local government to improve the regulatory performance of local government, and to recommend options for regularly assessing its regulatory performance. The risks of regulations failing to achieve their purpose or imposing excessive costs as a result of being allocated to the wrong level of government, or as a result of poor design or execution on the part of local government, underpin this inquiry."*

At the outset, the Council would wish to make it clear that it strongly supports the importance of efficiency in local government regulatory practice. The Council is also very conscious that while protecting environmental bottom lines is important, creating an economic environment which encourages confidence and investment to enable communities to develop and thrive is also very important.



The Council regularly reviews its regulatory processes to seek to identify and implement efficiencies. The Council is currently meeting and exceeding its identified Long Term Plan targets for timeliness regarding the processing of resource consents and building consents - two key areas which have been criticised for regulatory inefficiency at a national level.

The Council notes that the general tone of the paper is that local government regulation has an impact on productivity which is inherently negative. With respect, the Council would dispute this. There can be instances where local government regulation, such as RMA zoning techniques, can add to efficiency and community cost-effectiveness by providing for more logical and practical infrastructural servicing.

The Local Government Act 2002, and other relevant legislation such as the Resource Management Act 1991, provides councils with the mandate and processes to establish a regulatory regime in consultation with their communities, which reflect the wishes of those communities. Hence, it should not be automatically concluded that it is inherently inefficient or "wrong" to have such provisions in place. It is noted that the discussion document acknowledges these local variations on page 18.

An example from the Southland District Council area is a set of District Plan provisions which apply specifically to the Stewart Island/Rakiura Urban Resource Area as identified in the Southland District Plan. These provisions were developed in consultation with the Stewart Island Community Board and the wider Stewart Island community, and are aimed at ensuring that development is able to occur on Stewart Island/Rakiura, but also takes place in a manner which maintains the unique environmental values of the Island.

The Council also considers that there are significant efficiencies and benefits able to be achieved in regulatory functions through collaboration. The Southland Region has already made some significant progress in this area through initiatives such as the Southern Building Cluster (a collaborative cluster of the southern building control authorities which has already achieved efficiencies, such as standardisation of application forms across all agencies), a combined dog control facility funded by Invercargill City Council and Southland District Council, and collaborative progression of the review of the Southland District Plan and Environment Southland's Regional Policy Statement. It is noted that the Issues Paper acknowledges initiatives within local government already occurring along these lines.

With regard to some of the specific questions raised in the Issues Paper, the Council would wish to comment as follows:

***Q6 and Q8 - Do the different characteristics/local preferences and priorities of local authorities explain most of the differences in regulatory practice across local government?***

Yes, and for the reasons outlined above, the Council does not consider that this is inherently a bad thing.

***Q16 - To what extent does variation in regulatory practice matter?***

The Council considers that these differences do matter. Local variations should be clearly mandated by the community and have a clear purpose and clear value, and should not impose unnecessary additional compliance costs for little benefit.

***Q22 - Which factors discussed in this chapter (as summarised in Table 4, page 34) are the most important for allocating regulatory functions locally or centrally?***

The Council considers that national priorities, encouraging regulatory consistency where appropriate, capability and capacity, and governance issues are the most important of the factors listed.

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

The Southland District Council considers that the current central/local government regulatory split is generally appropriate and that Council seeks the retention of its current regulatory functions.

***Q35 - What types of regulatory functions more readily lend themselves to co-ordination to improve regulatory performance?***

The Council considers that those functions which most lend themselves to such co-ordination could be those where some subjective “judgement calls” need to be made, which can lead to significant regulatory uncertainty and also cause significant frustration for persons wishing to undertake development activities. An example of an area which has imposed very significant costs on communities and developers has been the identification of “significant indigenous vegetation and significant habitats of indigenous fauna” as required under Section 6(c) of the Resource Management Act 1991. The lack of clear criteria around exactly what central government is seeking that local government protects and achieves has been a source of considerable frustration and costs for all, and this area has proven very problematic to administer - particularly for large rural authorities such as Southland District, although it is acknowledged that there has been some more recent clarification around this issue at a national level.

A further regulatory area where the Council considers some central government direction could remove some inefficiencies is the combining of planning documents. While the 2009 amendments to the RMA provide a greater mandate for producing combined planning documents, and the Southland councils already have a tentative plan to achieve this by 2020, some stronger legislative mandate could assist in removing barriers to this occurring. The Council considers that the multitude of RMA planning documents which exist in any region can create confusion, frustration and excessive costs for developers and also confusion for the general public.

***Q46 - To what extent are councillors involved in the administration and enforcement of regulation? Has this raised issues in regard to the quality of regulatory decision-making and outcomes?***

Southland District Council has a high level of delegation of regulatory functions to senior professional staff, to assist with timely and cost-effective processing. In situations where elected representatives are involved in decision-making, and one or more members has made comments or taken other action which could call into question their objectivity; then the Council ensures it uses an independent decision-maker/hearing commissioner in such instances.

***Q53 - In what areas of local government regulation is performance being monitored effectively?***

The Council considers that the monitoring of performance is being effectively achieved in the Building Control sector through external IANZ auditing processes. This creates national consistency in monitoring and reporting. The process also enables areas where improvement is required to be clearly flagged, and provides a clear incentive for implementation of such improvement.

In contrast, the central government monitoring by MFE of RMA performance has, in the Council's opinion, been excessively focused on timeframes, with little focus on the quality of decision-making processes, best practice identification and overall improvement of the sector.

***Q65 - Is there a role for a third party evaluator to measure customer service standards in local authority regulatory functions?***

This is already occurring in some sectors, such as Building Control as referred to above. Like most other councils, Southland District already currently monitors customer satisfaction in relation to the performance of its regulatory functions and the results of this monitoring are factored into the Council's improvement programme.

There could be some value in standardising customer satisfaction monitoring across the whole sector, but clarification is sought as to how this would be funded to ensure that this Council and others would not be incurring significant additional unbudgeted costs.

In summary, the Council certainly strongly supports the importance of regulatory efficiency in minimising barriers to productivity, but also considers that there should be scope for local regulatory responses to local issues if these are mandated by the community. Where national priorities exist such as in the areas of climate change and biodiversity, then central government has an important role in providing clarity to the local government sector on the scope and scale of the local government regulatory response.

Thank you for your consideration of this submission.

Yours faithfully



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**GROUP MANAGER - ENVIRONMENT AND COMMUNITY**