

The Far North District Council ("Council" or "FNDC") thanks the Productivity Commission for consulting with local government generally, and allowing Council to contribute to the development of a regulation regime that takes into account rural Councils and local disparity. While Council has answered the majority of the 65 questions, it is important that the main concerns Council wants to highlight are upfront and not tied to specific questions.

With 18 Select Committees, many of whom introduce legislation with consequences for local government without knowing the impact on Councils from other select committees, Council suggests that all bills under consideration have to seek endorsement from the Local Government and Environment Committee, who will become the holder of the quantum of delegations on behalf of the rest of government. This would empower one committee to determine the overall effect and cost to Local Government and perhaps consider recommending, when appropriate, an alternative outcome.

Below are some examples of the impact of recent cumulative legislative change on the end user:

- The recent changes in the Hazardous Activities and Industries Legislation (HAIL ACT) and the costs, time delays and lost opportunity
- Add to this, the tightening up under the Building Act with the introduction of such things as the earthquake proofing
- Tighter requirements for weather tightness regulations and the costs
- New Labour Department requirements for scaffolding and handrails coupled with the banning of saw stools, scaffolding planks in certain circumstances and house wrapping for builder safety, etc
- Proposed impacts of the New Regional Policy Statement
- District Plan amendments
- Licensed Building Practitioner Scheme and the associated increased costs
- Increased insurance costs
- Hazard mapping and the resulting implications.

This disconnect in Wellington means that no one Department or Minister is actually keeping a watching brief on the cumulative effects and while each reform taken on its own is well meaning – without reference back to the overall picture, they can be incredibly damaging. Both in terms of compliance costs and increasing frustration with meeting even higher standards may mean new initiatives never get off the ground as overcoming the regulatory hurdles are deemed too great.

There are more examples in the question responses, but these examples of independent Regulatory Controls, at a disconnect from the centralised overview, means that Councils are required to enforce more and more regulatory functions that are adversely impacting on the economic growth and well being, both in the Far North and in New Zealand.

Auckland tends to dominate in regulatory reform – for example a Hazardous Activities and Industries Legislation (HAIL) test for a 100 lot subdivision in Auckland is a one off cost that could probably be easily absorbed. However, rural and provincial NZ, in Council's opinion do not operate that way - with subdivision in particular dominated by one off developments of the Ma and Pa style, where they want to cut off one lot for the family or to make a dollar. In these cases, the collective costs make this type of development uneconomic. There needs to be a greater understanding of the uniqueness of urban vs. rural environments. Local roads are a classic example: Council is considering a proposal not to service/maintain roads which provide access to 5 properties or less, due to government reducing the subsidy funding requirement for provincial councils throughout NZ. While a reduction in funding taken up with roads of national importance, along with associated savings for Council from not providing local share, there is a real concern that this is not the right action, given the **Economic Development** growth we all desire

National standards with a one size fits all approach do not address individual community's abilities to pay. The affordability implications for a proposed Bay Of Island Sewerage Scheme are compounded by the sheer number of Government and non Government organisations that Council must deal with, as well as the multitude of standards and regulations. The total spend on due diligence, reporting and applications on the project to date is over \$2.5 M, about 10% of the project cost. The reporting is in response to legislative compliance and information gathering for various regional and crown entities that often have conflicting interests and timeframes. Council has spent an extraordinary proportion of time and cost meeting crown and then regional requirements. A critical issue has been compliance to the numerous pieces of legislation and ministerial directives; these include:

LINZ	<p>In 2001, an application was initiated to extend the license within the Waitangi Forest to enable the expansion of the Paihia Plant to take the Kerikeri flow and allow for growth. To enable the building of a transfer main, along Kerikeri Inlet Road, LINZ would consider the application on the basis of:</p> <ol style="list-style-type: none"> 1. evidence that all options have been considered, Including a cost benefit analysis, AEE and CIA 2. obtaining a resource consent 3. a full SCP process of consultation with Iwi.
Ministry of Health	<p>Initial approval was provided in 2003</p> <p>Sewage subsidiary application 2009. \$7.3M</p> <p>Sunset is June 2013 which does not account for the protracted nature of the resource consent process</p> <p>Owing to delays created by legislative compliance; unless the close date can be re-negotiated, Council will lose access to the \$7.3M.</p>
Department of Conservation	<p>Wildlife Act 1953</p> <p>Conservation Act 1987</p> <p>Takutai Moana Act 2011</p> <p>DOC laid out stringent monitoring and terms for the resource consent.</p>
Historic Places Trust	<p>Historic Places Act 1993</p> <p>Heritage New Zealand Pouhere Taonga Bill 2011</p> <p>Resource Management Act 1991</p> <p>Required full Iwi consultation, an archaeological report and on site monitoring during excavation</p> <p>Treaty of Waitangi.</p>
Audit NZ	<p>Commerce Act 1986</p> <p>Local Government Act 2002</p> <p>Audit requires a rigorous and detail fiscal and community process to meet the standards under the LGA</p> <p>Audit requires that owing to the time lag created by the RMA process that another community consultation will be required.</p>

Iwi	Waitangi Claims and Treaty Settlements
Northern Regional Council	<p>Resource Management Act 1991</p> <p>In 2006, Council applies for resource consent. Notified in 2007</p> <p>Heard in 2008. Sent to the Environmental Court. Resource Consent was given with stringent effluent conditions and monitoring in June 2012</p> <p>The cost of the consent process was approximately \$1.5 million</p> <p>The Kerikeri wastewater consent was renewed in 2004 for 10 years as an interim measure.</p>
Stakeholder groups	<p>Numerous groups have been involved throughout the process.</p> <p>Their requirement and objections have resulted in a protracted consenting process and high effluent requirements that have added substantially to the cost of the plant.</p>

FNDC currently funds the Citizens Advice Bureau and our Community Boards fund things such as Hospice and/or Food Banks. There is often no other direct funding stream for these organizations, as they are not directly funded by the Crown, District Health Boards or COGS funding. Council continues to assert that social funding should be left to Central Government but necessity often drives a need to fully fund or shortfall fund these organisations. Better Local Government reform has clearly told Council's where to direct our infrastructure and services and social fund is not one of those key areas. Some examples are Freedom Camping, swimming pool fencing, car parking, etc. Council would even state that with the removal of the four well being then there will be no mandate for councils to fund social problems such freedom camping, or parking congestion issues at sports grounds, etc. Further to this are areas of funding for social elements of legislation delegated by Central Government that has led to disparity across the Territorial Authorities about carrying out the functions, usually enforcement.

Central Government should consider centralised cloud storage for all of Local Government. There will be:

- Considerable cost savings across Councils
 - Economies of scale.
 - Licencing costs reduced and consistent (less time negotiation of contracts for each Council, i.e. – Microsoft, VMWare).
 - Security of data (if setup up correctly with replication)
 - One service desk for all Councils
- Easier accessibility for public documentation, especially if structured correctly
- A customer portal with search capabilities – considerably faster than a search engine across multiple Councils, who store communication and documents in as many ways as there are Councils; when seeking information; which is the current methodology
- Easier to compare levels of compliance to regulation

Finally, Council believes that Central Government should reduce the amount of regulatory responsibility rather than consider more. This will reduce both the costs and impact. Council suggests that as part of the Commission's review, the following guideline be used:

- Seek to reduce the amount of regulation
- Place all the components of responsibility for social policy back to Central Government
- For existing legislation, there will be some key regulations or components of the regulations that need to be adhered to; but give more local discretion around those regulations or aspects of the regulations that will not impact on the health or safety of our communities
- Consider that the Local Government and Environment Committee becomes the holder of the quantum of delegations on behalf of the rest of government.

Summary of questions

The Commission's approach

Q1	What is the relative importance of the range of the regulatory activities local government undertakes? Where should the Commission's focus be?	There is a tendency for legislation and consequently regulation to be too broad brushed, it penalises the majority of well behaved / compliant individuals in order to capture the non compliant minority. Placing the onus back on non compliant individuals – use the maxim: individual action = individual responsibility. The Liquor Reform Bill and the Gambling Harm Reduction Bill are good examples.
Q2	What are the main economic, social, demographic, technological and environmental trends that are likely to affect local government regulatory functions in the future?	For this district, the two major areas are: Treaty settlements. Minerals

Local government and regulation

Q3	Has the Commission accurately captured the roles and responsibilities of local government under the statutes in Table 2?	Yes, but Council questions why there is not more consistency. Some Acts devolve consultation and consideration of community interests before setting policy and bylaws, whereas many of those that would make a significant impact with local input, Councils have been deliberately given no role. The Building Act is a prime example where Councils have no role in setting building standards and cannot set standards higher or lower than the building Code. It is apparent that some areas need higher standards such as earthquake prone urban areas and others such as the Far North where flooding is the issue, may not. This is not a mandate for shoddy buildings (leaky homes) but for well built homes particular to the local conditions. Higher standards when unnecessary add compliance costs that are unnecessary. Same applies to the Resource Management Act in relation to nation environmental standards
Q4	Are there other statutes that confer significant regulatory responsibilities on local government? What, if any, regulatory roles of local government are missing from Table 2?	While the impact of each act or standard may not impact highly, when taken as a quantum every new devolvement adds to the implementation cost, the quantum effect is significant. Non Noted

Q5	Are there any other local organisations with regulatory responsibilities that the Commission should consider?	Historic Places Act. The Far North has the highest number of archeological site particularly Maori and under staffing in Historic Places Trust in the Far North places greater impediment for Council to respond.
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Regulatory variation

Q6	Do the different characteristics and priorities of local authorities explain most of the difference in regulatory practice across local government?	Yes
Q7	Are community expectations to 'do more' about social issues leading to different approaches to regulation between local authorities?	No comment
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?	See question 3 above. If Central Government is going to devolve responsibility within the legislative framework, then local preferences should be the norm rather than continued amendments to constrain the local preference.
Q9	Are there areas of regulation where local and central government regulation appear to be in conflict? If so, how far should such conflicts be accepted as a consequence of the diversity of preferences?	Other than consistency across the Acts, the main conflicts for Council are between Regional and Local. The reality is that such conflicts should not exist as they impose greater constraints on essential infrastructure projects, incur greater costs due to higher compliance; compliance is often higher than the imposed standards by Central Government
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?	An example is Wastewater; some Councils have adopted TP58 in its entirety but many other districts have not, leading to disparity. This non standardisation can lead to development taking place in the lesser regulated districts, rather than other factors being the determinant. The impact does have an economic effect.
Q11	In what ways has the Treaty of Waitangi influenced how local authorities have undertaken regulatory functions delegated to them by the Crown?	The requirements of the RMA; noting that potential changes will place more influence in regard to treaty settlements. If under these provision, Councils are required to return land along with commercial redress, there may be significant impacts
Q12	What does this variation mean in practice – for Māori, the local authority and for the regulation of the resource?	No comment
Q13	Are there other significant sources of variation in local authority regulatory practice than those described in this chapter?	None noted
Q14	Can you provide examples of inconsistencies in the administration and enforcement of regulations between local authorities?	Enactment of Nation Standards with inadequate guidelines to their implementation and administration. Another example between local and regional authorities is : Council has 46% of the roads in the region but only 1 representative on the 12 member Regional Land Transport Committee under the responsibility of the Regional Council. Other than public transport (almost non existent in the Far North), District Council ratepayers fund local share, Council develops the work programme and budgets, but have little influence through voting on the final strategy.

Q15	Do these inconsistencies impose extra costs on businesses? If so, are these extra costs significant?	A major issue for the Council is the detrimental effect on the state of roads caused by winter forestry. Regional Council set the forestry access standards, while the District Council has the increased problem of maintenance and associated cost, which is currently funded by all ratepayers. In a fairer user pays rating system, the forestry industry will be required to fund more of the cost for maintenance on roads.
Q16	To what extent does variation in regulatory practice matter?	Council through its adoption of a catchment based approach to wastewater has tried to work effectively with those discharging to seek local innovative solutions. Unfortunately, Regional Council has continued to focus on compliance which has hindered resolution and contributes to ongoing pollution.
Q17	Can you provide examples of regulatory innovation by local government?	For this Council, the development of the Simple Structures Building Consent being processed in 5 days or less (statutory time = 20 days)
Q18	Is the innovation specific to a particular local authority and its unique circumstances, or could it be adopted more widely?	Yes, can be adopted by all Councils and in fact probably will be in Building Act Amendment Bill 4 Specific provisions for developing on Maori land which other Councils have copied
Q19	What mechanisms or incentives are there for local authorities to share innovations (or experiences with 'failed' innovations) with others?	LGNZ listserv as well as LGNZ and SOLGM conferences, training and summits which more Councils would support and attend if costs were kept down. Conversely, very few Government Departments hold training session on implementation and monitoring for regulations and standards. Those that do are often only in Wellington, making it difficult for small and distant Councils to participate
Q20	What factors encourage (or deter) local authority innovation? (e.g. the (in)ability to capture the cost savings from innovation)	Often innovation means less income and has to be funded by other means

Who should regulate?

Q21	Has the Commission captured the advantages and disadvantages of centralisation and decentralisation for each of the factors?	Yes
Q22	Which of the factors discussed in this chapter are the most important for allocating regulatory functions locally or centrally?	For this Council – Preference, externalities, innovation (especially localised – local solutions for local problems), and regulatory consistency between local and regional. Council would also contend that while competition in some instances might be beneficial, an unintended consequence is that this could lead to more regulation as well as poorly thought out regulation
Q23	Which other factors might be important for considering whether a regulatory function should be undertaken locally or centrally?	There is another maxim that says "less is more". Continued reliance on more and more legislation spread between Central, Regional, Local and community creates a disjunction that results in inconsistencies, confusion, higher compliance costs, and increases the risk of non compliance or litigation in the Courts
Q24	Are the factors discussed above helpful in thinking about whether a regulatory function should be relocated?	There are too many layers of regulation and much clearer ownership and analysis to determine the level where the function is located.

Q25	In the New Zealand context, are there regulatory functions that need reconsideration of who (central, local, community) carries them out?	Certainly for the more social issues that have been devolved to Councils, there needs to be a reconsideration of Central Government taking more responsibility. Issues such as liquor policy, gambling harm reduction and Genetically Modified Organisms all have the potential to be captured by vocal minority groups and resulting policy may not reflect the community's views and may not be in the best interests of the district. Most well behaved individuals or organisations do not participate and often do not even know of the draconian regulations until it become personal. Again, Council recommends the view of individual action = individual responsibility.
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Getting regulation right

Q26	Do local authority significance policies allow for adequate consideration of the present and future costs and benefits of local government regulation-making?	No comment
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?	No comment
Q28	Do you have examples of regulatory responsibilities being conferred on local authorities with significant funding implications?	Everything devolved has funding issues leading to higher fees or higher rates, which is a conflict with the tenet behind rate constraints led by Central Government through the Better Local Government proposition
Q29	How might central government regulation-making better take account of the costs and impact on local authorities from the delegation of regulatory functions?	<p>Council believes that Central Government should reduce the amount of regulatory responsibility rather than consider more. This will reduce both the costs and impact. Council suggest that as part of the Commissions review, the following criteria be adopted</p> <ul style="list-style-type: none"> • Seek to reduce the amount of regulation • Place all the components of responsibility for social policy back to Central Government • For existing legislation, there will be some key regulations or components of the regulations that must be adhered to; but give more local discretion around those that will not impact on the health or safety of our communities • With 18 select committees, many of whom introduce legislation with consequences for local government without knowing the impact on Councils from other select committees. Council suggests that all bills under consideration have to seek endorsement from the Local Government and Environment Committee, who will become the holder of the quantum of delegations on behalf of the rest of government. This would empower one committee to determine the overall effect and cost to Local Government and perhaps consider recommending, when appropriate, an alternative outcome.
Q30	How might central government better work with local authorities on the design, implementation and funding of delegated regulatory functions?	Suggest that Central Government pay rates on crown land, this would go a long way to funding the increasing cost for implementing regulation

Q31	How could the RIA framework be improved to promote a fuller understanding of the impact of devolving new regulatory functions to local authorities?	See last point in Q.29 about Select committees
Q32	How successful has the guidance document Policy development guidelines for regulatory functions involving local government been in improving the consistency and coherence of central government policies that involve local government?	Not generally good – most are so far removed from local communities and are often both unaffordable and unachievable
Q33	To what extent is the effective implementation of regulations delegated to local government hampered by capability issues in local authorities? Do capability issues vary between areas of regulation?	While Council is generally comfortable with our implementation and capability, attracting staff with the required skill sets is difficult, especially when regulation devolves a need for specialists. Council is concerned that Regional Council does not have the staff or capability to service our communities. While we recognise the tyranny of distance – Auckland is closer to the regional councils main base than our northerly communities, Council is concerned that regulation at the regional level is applied without local knowledge or adapted to local conditions
Q34	Can you provide examples of regulatory cooperation and coordination between local authorities or between central and local government, and describe successes and failures?	Councils - A Northland wide cluster group was developed through the Building Act accreditation. Delegated regulatory function from Regional Council – e.g. On site Wastewater disposal Central – Local - The Alcohol Accord. Council, DHB and Police. This has gained a reputation as a model that other areas are trying to replicate.
Q35	What types of regulatory functions more readily lend themselves to coordination to improve regulatory performance?	Functions under the RMA. A move by any Councils to unitary status will mean 1 LTP, 1 AP and 1 district plan a la Auckland and will lead to consistent regulation and cost saving
Q36	What are the most important factors for successful regulatory coordination?	Overcoming patch protection
Q37	Are opportunities for regulatory coordination being missed?	Non noted
Q38	What are the main barriers to regulatory coordination?	Physical distance and a lack of buy in to cooperate and the cost associated with this
Q39	Are there examples in New Zealand where local authorities mutually recognise each other's regulations?	None noted
Q40	Which local government regulatory areas (eg, planning and land use, building and construction, environmental regulation, public safety and food safety) impose the greatest unnecessary regulatory burden on individuals and businesses?	They all do – this country is over regulated and people do not take responsibility for their own actions, leading to higher compliance costs to everyone, both through fees and through public good rates
Q41	In what ways are these regulatory areas unnecessarily costly (eg, are they too complex, prescriptive or unclear)?	They place onus on Council to regulate what should be the responsibility of individuals, families or companies. Swimming pools are a good example – While there is no complaint about the consent process, Councils should not have to carry out tri annual inspections “all reasonable steps” needs to be defined and be prescriptive for all parties. Dump inspections – onus should be the users/owners responsibility

Q42	Are there particular examples where local government approaches to regulatory responsibilities are especially effective at minimising unnecessary compliance costs for individuals and businesses?	Alcohol Accord – as discussed previously. It is a 1 stop shop for all aspects of liquor licencing by Council, Health and the Police.
Q43	For which aspects of the regulatory process (eg, approval, monitoring, enforcement and appeals) could compliance costs to business be reduced without compromising the intent of the regulation? How could this be done?	No comment
Q44	How well are the principles on which local authorities are required to base the funding of regulatory activities applied?	The public/private split is the result of applying the principles and audit ensure that this is fairly reflected across sector. LTP and annual plan process??
Q45	Are there examples of where cost recovery is reducing compliance with regulations and reducing their effectiveness?	In essence, no one really pays willingly for compliance and many would prefer, if possible, to flout the regulations and see if they can not get caught
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?	Governance adopts all policy and strategic document that guide how Council conducts its responsibilities – Council uses Commissioners, especially for consents so that decision making at that level is distant from the Policy makers.
Q47	Are there any other governance issues which impede the efficiency of local government regulation?	None noted
Q48	Are the current processes for reviewing existing regulation adequate? Could they be improved?	No comment
Q49	In which regulatory areas are there good regulatory review mechanisms? In which regulatory areas are there poor or insufficient regulatory mechanisms?	No comment
Q50	Who should undertake regulatory review – the responsible agency or an independent body?	Independent - preview rather than review and ensure the regulation will work – can it be applied fairly and consistently
Q51	Is there a sufficient range of mechanisms for resolving disputes and reviewing regulatory decisions of local authorities?	No, however, RMA is a good example where anti-competition issues have been addressed. However the current process for resolving disputes through the Court process is overly time consuming, expensive and legally based.
Q52	Are some appeal mechanisms used excessively, frivolously or for anti-competitive reasons?	The Environment Court has been, but Council is pleased to see the Court given greater latitude to restrict addition of 'interested parties' and vexatious use of the court. The appeal process under the Building Act allows parties a mechanism to access the District and High court. Council is left to defend technical decisions by the Crown without any financial or technical support. This Council has experienced frivolous behaviour that has been extremely costly to the ratepayers. Council wants the Court to be given more discretion to restrict participation by those not living in the district and not adversely affected. This will stop both people and organizations with a national agenda costing ratepayers significant cost burdens in the Environmental Court.

How should regulatory performance be assessed?

Q53	In what areas of local government regulation is performance being monitored effectively?	No comment
Q54	Are there areas of local government regulation where performance is not being monitored and assessed?	No comment
Q55	Is the current monitoring system effective in providing a feedback loop through which improvements in the regulatory regime can be identified and rectified? What examples are there of successful improvements to a regulatory regime?	Feedback loops inadequate and not timely.
Q56	What challenges or constraints do local authorities face in developing and sourcing data for better practice regulatory performance measures?	Lack of guidance documents for new regulation and the tyranny of distance to Wellington, where most training or seminars occur
Q57	Are there examples where local authorities are using better practice performance measures? What, if any, obstacles exist for wider adoption of these measures?	The northern cluster group has delivered on BCA consistency with regular meetings and a drive to deliver compliant outcomes for customers. The performance measure has been three successful yet separate audits under the BCA regulations. These audits have been conducted separately with each Council bearing the individual cost of auditing essentially three interpretations of how to implement the Building Act. The crown continues to produce guidance notes, regulations and assistance to the interpretation and implementation of the Building Act, this creates an inconsistency for local authorities. Consistently the crown mentions accountability and performance in a sector that is performing poorly in productivity and innovation. For local authorities to deliver better outcomes guidance notes must be replaced with prescriptive "how to guides" for implement measures that meet accreditation requirements to ensure that performance is consistent and without obstacles, particularly for customers benefit.
Q58	What kind of regulatory performance measurement would add maximum value to local authorities, their communities and New Zealand?	Less rules and easier implementation would mean that a monitoring regime is more focused and is easier to undertake. However, the implication of not getting it right, makes it difficult to claw back poor outcomes – e.g. water pollution Accountability of licensed building practitioners where Council becomes the holder of records but not the decision maker in development consents. A review of 'joint and several' liability needs to take place under the Building Act to ensure accountability is placed in the right area. Council is not the designer, constructor or developer, but it should be the holder of records and the independent auditor for a snap shot of compliance.
Q59	What regulatory performance indicators are most commonly used by local authorities? Can you provide examples of good input, output and outcome measures for regulations you have experience with? What makes them good indicators?	No comment

Q60	What kind of centrally provided data would enhance the local government regulatory monitoring regimes?	A central property file data system where a geo spatial data system is created for access of all users and should include data relevant for the following aspects NZFS, NZ Police, MCDEM, NIWA ,MBIE, NZTA, MFE, Landcare services, GNS, lifelines and utilities (local and regional).
Q61	Are there quality issues in existing nationally available data sets that would need to be resolved before developing national performance measurement regimes?	Interoperable and agnostic software would need to be developed to ensure all systems are coordinated for maximum gain. Cloud based
Q62	What are the specific characteristics of individual local authorities that make local authorities comparable with regard to their regulatory performance?	No comment
Q63	Of the performance indicators commonly collected by local authorities, do any naturally lend themselves to systematic benchmarking of regulatory performance?	Statutory time frames and customer time (real time for consumers)
Q64	What new performance indicators could meaningfully measure the regulatory performance of local government?	Nationally implemented electronic applications where customers are able to track consents and deal with real time frames online. This would also allow for better qualitative information supplied upfront with completion of application to be mandatory by applicants.
Q65	Is there a role for a third party evaluator to measure customer service standards in local authority regulatory functions?	In some circumstances, yes. An example is the Building Consent Authority who measure customer service standards under the regulations in their biannual audit process. The ombudsman also performs this role in extended situations.