



**STANDARDS
NEW ZEALAND**
PAEREWĀ AOTEAROA

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Inquiry into Local Government Regulatory Performance
New Zealand Productivity Commission
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Standards New Zealand submission on better local regulation

Standards New Zealand appreciates the opportunity to comment on the Productivity Commission's draft report *Towards better local regulation* (December 2012).

This submission aims to highlight the role that Standards New Zealand (as New Zealand's national Standards body) plays in bridging the objectives of central and local government, and providing flexible tools that can empower local regulators.

Support for the Commission's findings

Through our development of Standards solutions we observe contrasting regulatory approaches undertaken by a wide range of regulators in both central and local government.

Generally speaking, we support the appropriate 'empowerment' of local government to make regulatory decisions about the issues it is closest to.

However, we also acknowledge the benefits of standardisation that can come from a centralised approach to regulation, and note that there are matters of national interest that may benefit from a higher level of central government oversight (for example, levels of earthquake resilience for buildings).

In practice, we believe these two objectives must be finely balanced. That is, ensuring that regulation is fit for purpose with stakeholder buy-in, while avoiding a duplication of effort, an increase in the transactional cost of dealing with local government, or compromising matters of national interest.

Specifically, we agree that:

- good regulatory outcomes are more likely to be achieved when there is clarity of role and coordination between levels of government responsible for standard-setting and implementation (F4.6)
- an opportunity exists to use the Better Public Service Initiative to promote a more joined up, whole of government approach to regulatory policy involving the local government sector (F7.6)
- the RIS process has a valuable role to play in ensuring the quality of regulations delegated or devolved to local government. However, at present this value is not being fully realised and improvements to the process are required (F7.7)

- pragmatic approaches to building better relationships between central and local government are needed. These relationships must be based on a mutual understanding that both levels of government ultimately exist to create public value and that their ability to create public value is tied, at least in part, to the actions of the other (F7.13).

How Standards support better local regulation

Standards can support better local regulation by providing a pragmatic, joined-up approach to developing regulatory 'tools' and means of deploying them into the wider community.

They are robust, flexible instruments that can be applied across a wide spectrum of policy approaches, from industry self-regulation to mandatory requirements incorporated into regulation.

They support the implementation of regulation by setting out technical solutions to meet regulatory objectives, higher level performance outcomes required by regulators, or both. They are effective because they incorporate the knowledge of technical experts and those who will need to implement the solution, as well as the objectives of regulators and the interests of the public.

Standards developed to directly support local government regulation cover a spectrum of model bylaws (for example, covering dog control, trading in public places, waste water drainage, liquor control, and control of advertising signs), model standing orders for public meetings, and national Standards codifying best practice for wind farm noise and land development.

Standards New Zealand has a long standing track record of working effectively with Local Government New Zealand, local councils, industry, community stakeholders, and the central government regulators to produce these tools.

A pragmatic, joined-up approach

Working with Standards New Zealand is one way to better coordinate regulatory activity and improve the quality of engagement between central and local government.

A key strength of the Standards development process is that central and local government, industry, and consumer input can be brought together by an independent party (Standards New Zealand) to reach consensus and produce a national Standard or other guidance material.

Our process:

- facilitates the sharing of better practice and results in workable, practical solutions for the end users of the Standard
- promotes buy-in from stakeholders who have a real voice and input into Standards development.

At the same time, Standards New Zealand's facilitation expertise and status as a neutral third party can help to bridge divergent views and manage any tension between central and local government, industry, and community stakeholders.

Clarity on objectives, costs, and benefits

Like regulation, Standards solutions are most effective when there is a clearly defined issue to be addressed and the costs and benefits of intervention are understood.

While quantifying regulatory impacts can be challenging, we believe it should be incumbent on the regulator to demonstrate that the benefits of regulation outweigh its costs, and exactly why regulatory intervention is warranted. We raised this point previously with the Commission as part of its inquiry into housing affordability. In our view, it is equally applicable to promoting better local government regulation.

Our preliminary scoping work and Standards development process can provide invaluable input into the Regulatory Impact Assessment and cost benefit analysis that regulators should complete. Identifying the potential benefits of regulation and its costs is a critical element of stakeholder consultation, and can occur through the representatives on a balanced Standards development committee and the public comment process required under the Standards Act 1988.

Standards New Zealand can also help through scoping exercises and working with stakeholders to determine the best solution to meet their needs.

Building capability

The Commission sees capability building as a way to lift the quality of analysis applied to regulatory design. The following case is an example of how Standards can support regulatory capability.

Achieving Compliance – a guide for compliance agencies in New Zealand

The Compliance Common Capability Programme (CCCP) is a joint Department of Internal Affairs and Learning State initiative aimed at delivering better and smarter public services for less by supporting a government-wide, collaborative, problem-solving, and risk-based approach to compliance issues. Compliance activities include auditing, licensing, education, monitoring, surveillance, and investigation.

As part of the CCCP, Standards New Zealand developed a free online resource *Achieving Compliance – a guide for compliance agencies in New Zealand*. The guide makes compliance expertise and best-practice principles available to all those engaged in the business of achieving compliance.

The target audience for the guide includes senior managers, operational managers, and compliance officers in central and local government agencies. The guide may also assist individuals and organisations within regulated sectors, and will be a useful reference source for legislators, policy-makers, and those undertaking compliance qualifications.

The guide has received international praise for bringing together good practice and building a stronger professional compliance community.

Diffusing knowledge

Standards are essentially codified knowledge. As many Standards draw on regional or international Standards, and have input from experts in their field, this knowledge is considered better practice. In turn, the uptake of Standards (whether in whole or in part) supports the diffusion of better practice into the community.

As can be seen in our example on NZS 4404:2010 *Land development and subdivision engineering*, while different local authorities may have different regulatory needs they can still benefit from drawing on 'core knowledge' (contained in Standards) to inform their activities.

NZS 4404:2010 Land development and subdivision engineering

In 2010, Standards New Zealand published the revised *Land development and subdivision infrastructure* Standard NZS 4404:2010. NZS 4404 is a Standard for the design and construction of subdivision infrastructure. It is applicable to greenfield, infill, and brownfield redevelopment projects.

The impetus for the review of NZS 4404 came from requests for changes from Ministry for the Environment, New Zealand Transport Agency, Local Government New Zealand, pipe manufacturers, some territorial authorities (TAs), and a few individuals.

The previous version of the Standard tended to discourage innovative subdivision; well-designed solutions that were not in accordance with the acceptable solutions prescribed in the Standard often had difficulty gaining RMA consent, leading to delays and additional costs or a less desirable design.

The revised Standard encourages sustainable development, modern design that emphasises liveability and environmental quality, better land use planning, and integrated transport/land use outcomes. The work was recognised by the New Zealand Institute of Quantity Surveyors, receiving a Gold Award of Excellence in 2011.¹

The Standard is voluntary and provides local authorities, developers, and their professional advisors with criteria for design and construction of land development and subdivision infrastructure.

It is widely used as the base document by TAs and designers for technical compliance for the subdivision and development of land where these activities are subject to the Resource Management Act (RMA) 1991. Some TAs adopt it entirely, others use it with amendments, and others have their own documents for this purpose.

For example, Watercare Services in Auckland has adopted and adapted NZS 4404 into its *Infrastructure Design Standards Manual for Local Networks (Code of Practice)*. The Standard was seen as a valuable way to inform requirements for water, wastewater, and network utility services while accommodating local and regional circumstances.

Comment on Example 2: Building regulation

The Commission has noted that issues remain on how information and knowledge can be diffused effectively in a regulatory regime where roles are split between central and local government and across local authorities.

The Standards Council's submissions to the Canterbury Earthquakes Royal Commission of Inquiry commented extensively on:

- who the key players in the development of the building regulatory framework should be and why
- what their roles and responsibilities should be
- what impediments currently exist to achieving this.

We would refer the Commission to this material² and the Royal Commission's final report which covers the topic.³

¹ <http://www.surveyors.org.nz/Awards+of+Excellence+>

² [http://canterbury.royalcommission.govt.nz/documents-by-key/20120814.5003/\\$File/ENG.STA.0028.pdf](http://canterbury.royalcommission.govt.nz/documents-by-key/20120814.5003/$File/ENG.STA.0028.pdf)

³ <http://canterbury.royalcommission.govt.nz/Final-Report-Volume-Seven-Contents>

We continue to hold the view that authoritative information (including Standards, regulatory compliance documents, and industry best practice guidance) need to be brought together in such a way to improve access to users, and clarity of document status.

More effective knowledge diffusion is critical to the implementation of New Zealand's performance-based building control framework, regardless of the allocation of regulatory responsibility between local and central government. In our view, this will require a working partnership between industry, local and central government stakeholders, and Standards New Zealand.

Conclusion

Standards are, and should continue to be, part of the local government regulatory toolbox and wider initiatives to promote better regulation at both the local and central government level.

Standards New Zealand's processes, products, and facilitation capability can be a valuable part of a more coherent framework for local government regulation, and can help to diffuse and transfer better practice into the wider community.

We would be happy to answer any further questions the Productivity Commission may have regarding this submission, or provide further information if this would be helpful.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rob Warner', with a large, sweeping flourish at the end.

Rob Warner
General Manager, Strategic Development and Governance