

14 September 2012

New Zealand Productivity Commission  
PO Box 8036  
The Terrace  
**Wellington 6143**

Dear Madam/Sir

### **Local Government Regulatory Performance Issues Paper - Submission**

Thank you for the opportunity to comment on the Local Government Regulatory Performance Issues Paper. We have read the issues paper and would respond with the following comments.

In general terms we believe that there are many efficiencies identifiable from such a review and some of these could be achieved quickly and cheaply. Regulation and bureaucratic processes are necessary for the implementation of good governance, however it is important outcomes from such systems are efficient and delivered at the best possible cost. Generally, regulation delivered at a local level offers the cheapest solution which has been tailored to local circumstances.

#### **Question 1**

Local government administered regulatory activities range from being of essential importance to the national good:

- Building Act - Leaky Homes and Earthquake Prone Buildings
- Resource Management Act - Environmental quality to sustain life and amenity

Lesser regulation that simply assists in the general quality of our societies:

- The Dog Control Act
- The Litter Act
- The Gambling Act

The Commission should focus on the most significant cost saving regulation that adds the most quality to the lives of New Zealanders. This may not necessarily reduce bureaucratic process, but should deliver improved outcomes, for example no repeat of the Leaky Homes issue or collapse of Earthquake Prone Buildings.

#### **Question 2**

The greatest affects on Local Government in the future will be from Local Government Reform, rationalisation will affect democratic representation and the ability for a democratic structure to represent a community and provide regulatory outcomes suited to that community. Secondly, the internet and internet technology will continue to change the way that regulatory services are delivered.

### **Question 3**

A number of statutes need to be added to this list on table 2, some Submitters appear to have listed these, we would suggest adding:

- The Local Government Act 1974
- Reserves Act 1977
- Fencing of Swimming Pools Act 1987
- Burial and Cremations Act
- Camping Ground Regulations

We would also note the role of TLAs in the Building Act 2004 – in addition to the role as a Building Consent Authority. The attempt to summarise Local Government roles and responsibilities on table 2 has not been successful, in reality each piece of legislation produces a much more complex role for Local Government than suggested.

### **Question 4**

Have referred to these in Question 3.

### **Question 5**

Some other organisations with a regulatory role that should be considered are:

- Maritime New Zealand – Navigational safety and certification of vessels used the carry passengers with Local Government boundaries, (lakes and rivers).
- New Zealand Police – Sale of Liquor Act for suitability, monitoring and enforcement.
- New Zealand Police – Resource Management Act section 326 Excessive Noise Enforcement including attendance at social events and powers to enter a dwelling and confiscate noise making devices.
- Also Reserve Boards, Cemetery Boards, Forestry Boards and other specialist boards.

### **Question 6**

Differences in regulatory practices are important. This section does not recognise the option to enforce excessive noise problems by using section 326/327 of the Resource Management Act. Also section 322 of the Resource Management Act enables an Abatement Notice to be issued for properties and individuals that generate excessive noise, persistently. Some councils attempt to address this problem by using District Plan rules, however Existing Use Rights, rights of objection and the right of appeal can make a District Plan approach very convoluted.

### **Question 7**

Community expectations for increased involvement in social issues, are certainly leading to different approaches; liquor ban bylaws are an example. The variable solutions that different councils employ are ideally suited to being addressed with bylaws. The Prostitution Reform Act 2003 has produced a variety of responses, such as bylaws and also zones in District Plans.

### **Question 8**

As stated at Question 7, local preferences should be retained. The example of consuming alcohol in public places is a good one. Many communities control this using a bylaw, while other communities find it unnecessary. Central Government could impose a standard by making the practice illegal and this would apply to all public places in New Zealand. Clearly, more freedom is achieved by providing an enabling bylaw.

### **Question 9**

Nothing to add to this matter.

**Question 10**

Differences in effectiveness do occur as a result of different regulatory approaches. Perhaps greater communication between councils carrying out regulatory functions would assist in best practice solutions. As referred to in Question 6 above, bylaws can be a more efficient tool than a District Plan, for instance. However some councils perceive bylaws to be an antiquated tool. The Local Government Act 2002 has modernised bylaws as a regulatory enforcement tool which enables a bylaw to be developed specifically for a problem and easily employed for regulatory solutions.

**Question 13**

Variations of regulatory solutions are addressed in our answer to Question 6.

**Question 14**

A common inconsistency that we can identify would be in control of excessive noise (noise control), with three main differences between different councils being:

1. District Plan noise standards, decibel meter readings etc.
2. Bylaws that address nuisance from excessive noise.
3. Use of sections 326 / 327 of the Resource Management Act, with Noise Direction Notices being issued under section 322 of this act.

**Question 15**

In addition to what is set out in Question 14, another area of inconsistency is with the individual Building Consent Authority procedures that the Building Act 2004 introduced. The Crown refused to provide templated procedures and manuals for a Building Consent Authority. This resulted in individualised solutions at every council and individual requirements on applicants. Also this resulted in additional costs being imposed on building consent applicants in some districts.

**Question 16**

Variation in regulatory practice is desirable to enable a community to choose a regulatory solution that best suits their circumstances.

**Question 17**

The best example of regulatory innovation by Local Government would be in internet use to provide information, access to application forms etc. Plus in mobile computing solutions for parking enforcement, inspections etc.

**Question 18**

Some innovations could be adopted over a wider number of councils. For instance about 50% of councils enforce the Litter Act using infringement notices to varying degrees of motivation and success. A best practice guide could assist all councils to use this tool for environmental enhancement.

**Question 20**

Greater communication and publicity of successful solutions would assist successful solutions to spread throughout Local Government.

**Question 21**

No. The Commission has produced a superficial representation of the issues relating to Local Government regulation.

**Question 22**

A significant problem in allocating regulatory functions is the inability of Wellington based Central Government to understand Local Government in New Zealand.

#### **Question 24**

The factors discussed are only generally helpful in considering whether a regulatory function should be reallocated to improve efficiency. The document does not consider:

- Food Safety Regulation: The tiered administration of food safety does not assist in efficient service delivery. Why not have the Food Safety Authority administer this matter consistently across New Zealand?
- Significant Natural Areas: Matters of national importance are funded by local ratepayers. There is sometimes an imbalance in some districts where significant values may exist. Why not administer these values nationally and fund from the national purse?
- Sale of Liquor Act: Councils do not have Police powers of enquiry into 'suitability' of applicants or powers of enforcement. Police involvement and assistance to Local Government is very variable and often dependent on the level of interest from individual Police Licensing Officers. At times police reports are supplied late and monitoring can vary between districts. Why not have template procedures and service levels prescribed for the Police involvement in this Act? Better still, move all responsibilities to the Police to license and administer and have Local Government and community representatives sit on a District Licensing Agency that the Police report to.
- Noise Control: Local Government does not have the powers and training to attend social functions where noise and alcohol are causing problems in a community. Move all responsibilities back to the Police and adequately resource the responsibility.

#### **Question 25**

Responded to within Question 24.

#### **Question 27**

Local Government regulation making does lead to good regulation, generally. While it is prone to political misdirection through undue influence of lobby groups. Central Government is also subject to this influence too. The benefit that Local Government has over Central Government, is the intimate contact with the local situation.

#### **Question 28**

Significant funding implications have arisen from regulation conferred on Local Government that has produced significant funding implications:

- Resource Management Act - Significant Natural Areas.
- Building Act 2004 – individual development of Building Consent Authority procedures. The cost incurred by Building Consent Authority's to maintain their accreditation has in a lot of cases outweighed the efficiencies gained in the process of building consents. Rather than making the process cheaper for the customer it has become more expensive in some cases. The recent amendments to the Building Act 2004 have only made savings to the customer by making more types of construction exempt from consent requirements. This greatly increased process has driven a corresponding cost increase for the Customer.

#### **Question 29**

Central Government could better consider the costs and implications imposed on Local Government, when making regulations, by taking greater account of the views of Local Government New Zealand and SOLGM. The removal political agendas within Central Government regulation making processes would also produce improved regulation and more cost effective regulation.

**Question 30**

As for Question 29.

**Question 32**

The document has not been very successful in improving consistency of central government policies for Local Government.

**Question 33**

Yes, capability issues vary between areas of regulation and also size and location of council. Some specialist skills can be difficult to recruit to remote/smaller councils i.e. Environmental Health Officers and Building Control Officers. This difficulty can add cost to service delivery. Consequently, some regulations may be more suited to being administered at a national level, such as Food Safety.

**Question 34**

Yes, there are numerous examples of Shared Services between councils. Communication on best practice and co-operative initiatives happen regularly in Local Government professional networks. A schedule of shared services within Taranaki that we can identify is attached.

**Question 35**

Examples of regulatory services that lend themselves to coordination are building control, licensing, resource consent processing and staff training. More coordination could be applied between the Building Act/Code requirements for say backflow prevention and the Health Act requirements on water supply authorities (who are often the one and the same council but who do not coordinate their activities in respect of imposition of backflow – sometimes 2 x BFP are installed; one inside the property boundary and one outside).

**Question 36**

Important factors for successful regulatory coordination are similar scale, culture and resourcing.

**Question 38**

The main barriers to regulatory coordination are technical compatibility, political will, feasibility of any shared service and management of liability and financial aspects.

**Question 39**

Some TLAs recognise each other's regulations in areas of licensing of mobile food premises.

**Question 40**

Difficult to suggest any particular area, as all regulation is imposed for a reason. However the example of a liquor license not being processed or issued before the building is consented and constructed is an area for attention. Perhaps a liquor license could be issued subject to all necessary resource consents and building consents being obtained and complied with.

**Question 42**

As per Question 39. Some councils recognise outside mobile food premise licenses. This reduces unnecessary regulation of a mobile shop needing a license in every district that it operates in.

**Question 43**

The greatest expense of regulation on business would be after the resource consent process when appeals are lodged and progressed in a very expensive legal environment. Reduce

Environment Court process and time so that businesses are not subject to extensive delays and costs by the appeal process. Perhaps limit the right to appeal and resulting costs and time.

**Question 44**

The principles of public and private benefit are applied well by Local Government, the variations reflect local political choice. It is more important that the process to arrive at these varied outcomes it is correctly followed.

**Question 46**

Elected members are involved in administration and enforcement of regulations through the important role of deliberating over objections to staff decisions on enforcement. Some councils do not fully delegate enforcement authority and require involvement of elected members before certain levels of enforcement are initiated.

**Question 49**

Good regulatory review mechanisms exist in the District Plan review process and also bylaw review processes.

**Question 51**

We don't believe that there is a satisfactory mechanism to review Local Government regulatory decisions when often the only recourse is to the High Court. The cost and process to take an issue to this court is often very inappropriate.

**Question 52**

The appeal mechanism in the Resource Management Act is sometimes used inappropriately by well resourced businesses and private individuals. Despite attempts, trade competitors do find a way to obstruct other trade competitors at times. The Environment Court could have more powers to disallow an appeal.

**Question 53**

The Ministry for the Environment Biennial Survey is an excellent tool to monitor and compare Local Government performance on Resource Management Act performance. This type of comparative survey could be used in other areas of regulation.

**Question 54**

No.

**Question 57**

Key performance indicator reporting in Annual Plans is a mechanism that could be developed to give more consistent comparisons.

**Question 58**

Key performance indicator reporting and a national comparison benchmarking system would assist.

**Question 61**

Templating of data sets would be required for national performance measurement. This could take the form of minimum data requirements that all councils report on, with an option to report on more localised areas also.

**Question 62**

Difficulties in comparing data on a national basis will arise with the different scales and size of councils, different public/private cost benefit policies and different key issues of importance.

**Question 63**

Almost all data collected could be compared if the data collection was standardised. For instance costs to register a dog or provide dog control services could be compared if data collection was specified carefully. Total cost and cost to the dog owner could be identified for comparison.

Contact details regarding this submission:

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Yours sincerely

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Attachments:

1. List of South Taranaki Shared Services Schedule

## **List of South Taranaki Shared Services Schedule**

### **Corporate wide**

- Civil Defence – regional model contracted to Taranaki Regional Council
- Insurance coverage – joint purchasing
- Vehicle purchasing – joint purchasing
- Internet access and communications
- Regional Xplorer (GIS software)
- Regional aerial photography – cost sharing to fly the region

### **Engineering**

- Regional water supplies chemical procurement
- Water Treatment Plant technology (membrane) capital procurement (applies to Stratford and Opunake Water Treatment Plants)
- Regional Forums for Water and wastewater operations (i.e. plant staff from around the region get together to share common issues and solutions)
- Wastewater pump station design protocols (New Plymouth District Council and South Taranaki District Council)
- Regional Local Government Infrastructure Code Of Practice (all three Taranaki Territorial Authorities (TAs) committed in 2009 to adopting NZS4404 as a base document for development standards)
- We are all considering going to Water Outlook for compliance monitoring using SCADA and performance data storage, management and reporting for Water and Wastewater operations
- Waste management
  - waste collection (through one regional contract)
  - waste disposal (via one regional landfill)
  - regional governance via the Taranaki Solid Waste Management Committee for which all three Taranaki TAs and Taranaki Regional Council have both officer and elected representatives.
- Regional Land Transport Committee and officer forums/liaison meeting including New Zealand Transport Association (NZTA).

### **Pools**

- Taranaki Active Recreation Forum (Sport Taranaki and TAs) (this also includes TSB Hub)
- Regional Water Safety Forum (Water Safety New Zealand and TAs and others);

### **Tourism**

- Regional i-SITE group meets regularly (TAs and Venture Tourism Taranaki)
- Macro-regional i-SITE group (includes Wanganui, Palmerston North as well as Taranaki i-SITES) that meets bi-monthly
- Joint contract with New Plymouth District Council and Stratford District Council for Venture Tourism Taranaki to deliver tourism development and promotion for the region



### **Pensioner Housing**

- Pensioner Housing Forum – six monthly meetings include training and information sharing to develop best practice. Includes representatives from New Plymouth District Council, Stratford District Council, Whanganui, Rangitikei, Manawatu Community Trust, Horowhenua, and Palmerston North.

### **Community Partnerships**

- Regional Disability Strategy Coalition Group – members include a wide range of disability services and advocacy groups, Government agencies and the three TAs.
- Regional Capacity Building Incubator – currently meeting bi-monthly – working on a regional web-based portal for access to capacity building training, funding and a regional directory of clubs and organisations (includes TAs and other regional stakeholders)
- Regional Public Transport Working Party – investigating a daily public transport service between Hawera and New Plymouth. Representatives include three Taranaki TAs, Taranaki Regional Council, Western Institute of Technology Taranaki (WITT), District Health Board (DHB), and Regional Disability Information Centre Trust.

### **Road Safety**

- Regional Road Safety Education Programme delivered by South Taranaki District Council on behalf of the three territorial authorities. Contract value is around \$240,000 pa and involves a reference group including Police, Accident Compensation Corporation, Taranaki Regional, District Health Board and New Plymouth Injury Safe.

### **Libraries**

- Taranaki Children's Book Festival is a regional event which has run for four years. This is in collaboration between the three libraries (TAs).
- The three TA Head Librarians meet at least three times a year to maintain contacts and discuss regional issues and events.

### **Arts**

- The District Librarian represents South Taranaki District Council on the Arts for All Groups – about making Art and Culture accessible for all (disabled groups) (includes TAs and other regional stakeholders).

### **Museum**

- We have an excellent working relationship with Puke Ariki who, as the Regional Museum, supports Aotea Utanganui. We have had two exhibitions from Puke Ariki in the Museum over the past year. We currently have an informal Memorandum of Understanding between Puke Ariki and Aotea Utanganui.
- We attend regular monthly Taranaki Museum and Gallery Network Meetings where all museum and gallery people in Taranaki meet. They are held in different places around the region and this is led by Kelvin Day (includes TAs and other regional stakeholders).

### **Community Development**

- We attend a regional youth workers forum (includes TAs and other regional stakeholders).

- We have a contract with Venture Tourism Taranaki to provide Economic Development services and whilst this is not a joint contract with the other TAs, Venture Taranaki is a Council Controlled Organisation (CCO) of New Plymouth District Council and its Economic Development Advisor.
- Stratford District Council and South Taranaki District Council are supporting a project for sport development in schools being undertaken by Sport Taranaki.
- We regularly meet with other TA representatives regarding funding (e.g. Creative Communities and SPARC).
- Working with TAs and other regional stakeholders on a Legacy Leadership Training Programme (to bring a leadership development programme to Taranaki).
- Although not currently working with the other TAs on this, the other mayors have been working on the Mayor's Task Force for Jobs and the aim of 0% youth unemployment so it is likely that in the future this will be a regional initiative.

### **Environmental Services**

- We share an Environmental Health Officer with Stratford District Council during leave and staff shortage.
- We have a formal arrangement for Building Consent processing with Rangitikei District Council to cover for peak workloads.
- We have a Memorandum of Understanding with Taranaki Regional Council for Hazardous Substances response.

The above list of shared services, collaboration and best practice initiatives is significant in that it shows Taranaki Councils are collaborating to an extremely high degree without any legislative requirement to do so. These initiatives are undoubtedly contributing to lower cost and improved services for our ratepayers.

This list has been compiled by South Taranaki District Council staff so it may not include some of the collaboration and initiatives between say New Plymouth District Council and Stratford District Council. It would be interesting to see other lists compiled by councils in the Taranaki region as we suspect they would show that collaboration, shared services and other initiatives are contributing to reduced costs and better services for the ratepayers of the region.

While any model can be improved, the current operations seems to be a reasonably efficient and effective model for Local Government in the Taranaki Region.