

**TO:** Inquiry into Local Government Regulatory Performance  
New Zealand productivity Commission  
P O Box 8036  
Wellington

**NAME OF SUBMITTER:** Waikato District Council  
Private Bag 544  
Ngaruawahia

Council contact person: Tess Owen, Executive Assistant  
Telephone: 07 8248633  
Email: [Tess.Owen@waidc.govt.nz](mailto:Tess.Owen@waidc.govt.nz)

**Submission to the Productivity Commission to undertake an inquiry into the regulatory functions undertaken by local government and opportunities to improve its regulatory performance**

The Waikato District Council commends the Commission on the task it has been given to undertake, on behalf of central government, the development of principles to guide the allocation of regulatory functions between levels of government, and to identify functions that should/could be reallocated to a different level of government and appreciates the opportunity to submit on it.

**General comments**

This submission is written on behalf of the Waikato District Council. The council currently consists of a mayor and 14 councillors. The district is made up of 418,000 hectares and 64,000 people. The district is part of the 'golden triangle' between Auckland, Hamilton and Tauranga.

Our council acknowledges the myriad of regulation that currently exists between the different levels of government for New Zealand citizens and that it would be efficient, cost effective and transparent if there were to be a clear distinction between the role of central government, local government and the private sector given that too much regulation is expensive to our small nation and individual communities.

The Waikato District Council core service provisions are guided by five principles which have been developed through community outcome consultation. These include:

- An accessible Waikato;
- A sustainable Waikato;
- A thriving Waikato;
- A healthy Waikato; and
- A safe Waikato.

These five principles sit neatly within our core regulatory framework of:

- Resource Management Act 1991;
- Local Government Act 2002;
- Building Act 2004;
- Biosecurity Act;
- Dog Control Act 1006;
- Food and Hygiene Regulations 1974;
- Gambling Act 2003;
- Health Act 1956;
- Transport Act 1998; and
- Sale of Liquor Act 1989.
- Alcohol Reform Bill
- Civil Defence and Emergency Ac
- Historic Places Act
- Drainage Act
- Soil and Conservation Act
- River and Soil Act
- Conservation Act
- Waikato-Tainui River Settlement Act 2010

The focus for the Commission would be useful to local government if it clearly identified the regulatory functions that best fit central and local government so that costs to the ratepayer/taxpayer are more clearly defined and there is an avoidance of regulatory overlap or more importantly, cost 'dumping' by central government onto local government.

The future trends for local government are likely to be similar to those of today, namely:

- Appropriate land use;
- Sustainable use of New Zealand's natural resources;
- Population growth;
- Economic growth;
- Cultural diversity;
- Recreational needs;
- Staying healthy;
- Infrastructure needs; and
- Costs to maintain a high standard of living.

Other local organisations with regulatory responsibilities that affect our council:

- The Waikato River Authority
- Joint Management Agreement with Waikato-Tainui

The above legislation has the effect of implementing a co-governance and co-management function for any activities within the catchment of the Waikato and Waipa rivers, including the tributaries with Waikato-Tainui iwi. This is not the case throughout New Zealand at this stage for other local authorities.

Community expectations for our council are to 'do more' and go beyond just the social spectrum. For our council there is the relationship between Waikato District Council and Auckland Council regarding the management for economic growth, urban expansion and transport links with NZTA and the development of the Waikato Expressway. The commission needs to be mindful that within districts there are a number of different socio-economic conditions which require different management needs and often different approaches between authorities.

For the implementation of national standards there should be national consistency, where practicable. For example, the implementation of the National Policy Statement for Electricity transmission lines, drinking water, air quality standards and contaminated sites.

One area of conflict between local and central government is who should provide housing for the elderly and lower socio-economic communities? Another is, under the administration of the Resource Management Act 1991 (RMA) regarding deeming provisions. This provision is granted to regional councils for the insertion into their plans of national policy regulations but not to district councils for district plans. Instead district councils have to go through the lengthy and costly public consultation, hearing and appeals process for the same regulations. This, in turn, gives rise to local diversity of interpretation and implementation for the same national policy statement which is not efficient or effective for compliance costs nationally.

The exercise of regulatory powers definitely leads to differences in effectiveness, outcomes and interpretation for communities between local government councils. Our council has a very good example of this through the addition of part of the Franklin District Council to the Waikato as a result of the Auckland re-organisation. We can clearly demonstrate, for example, there are very different dog control rules, by-laws, sub-division rules in the two district plans which now makes it very confusing for our ratepayers who are part of one district but have different rules for similar activities. It would have been very helpful if central government had deemed the new Franklin area to be operative under the Waikato District Plan or alternatively, funded the Waikato District to undertake a new district plan to include the new Franklin area, similar to what is being undertaken in Auckland. This is one area of unintended consequences that arose from the Auckland Council legislation that had not been anticipated.

For the Waikato District Council it is not the Treaty of Waitangi that has had the greatest influence but the subsequent Raupatu Settlement Acts. This has positive effects for both parties in being able to cut costs of consultation and appeals to the Environment Court because iwi are now formally at the beginning of the decision-making process.

This has led to the inclusion of a new Vision and Strategy to the District plan for the protection and restoration of the health and well-being of the Waikato River and the signing and implementation of a Joint Management and Governance Agreement.

Examples of inconsistencies in the administration and enforcement of regulations (between Franklin district and the Waikato district?) are:

- Transferable development rights
- Sub-division rules in the rural and coastal zones
- Urban growth and density limits
- Speed limits in urban areas
- Civil defence level of preparedness
- Provision for papakainga
- Protection of significant areas of natural vegetation
- Protection and identification of maaori sites of significance
- Protection of historical and cultural heritage
- Stock by-laws
- Fees and charges

For businesses operating across more than one territorial boundary these differences can be frustrating and costly. The degree of frustration and burden to business will depend on the size of the business and the number of territorial authorities the business has to deal with.

The extent of variation between local government has probably reached its outer limit at present and there is a need for some consolidation and rationalization in the diversity. For example, a national dog registration fee (like for cars).

Within the Waikato region there is a growth and development strategy, Future Proof, which includes the three largest local authorities plus the regional council. This programme has then been imbedded in the Regional Policy Statement which in turn the participating districts will give effect to in their plans. Such integrated planning is new for our council and is proving a good discipline for those involved with regards to industrial land allocation, rules regarding sub-division of rural and coastal land and promoting economic growth through the development of the Waikato Expressway. This model could be universal to other council clusters if they were willing to participate.

Another regulatory innovation is that of co-governance and co-management with iwi regarding the protection and enhancement of the Waikato River. This has had the positive effect of iwi working alongside the local authorities and developing a healthy joint working relationship.

Unfortunately there are currently no incentives for local authorities to share innovations other than an individual council taking the leadership and initiative to do so. An important factor required to encourage local authority innovation is political willingness and the ability for cost sharing.

For our council the most important factors regarding regulatory functions locally or centrally would be that of capability and capacity. These two influence the ability to provide for economies of scale and scope, good information, innovation and regulatory consistency. We would be reluctant to lose the ability to form relationships and work with our customers on the personal level.

Other factors important for regulatory functions being undertaken locally or centrally could be the size and nature of the activity. For example, the provision of public toilets is probably a local issue, the protection of freshwater a national issue.

If there is to be an overhaul of local government and its role then a review and possible relocation of regulatory functions is imperative. However if the sole objective is to provide cost savings for central government, local government and the community, then WDC has doubts about its long term success unless there is a serious attempt by central government to minimize the number of pieces of legislation and the content that local government operates under. For example, simplification of the planning instruments required under the Resource Management Act 1991.

Local authorities endeavour to do their best through their 'significance policies' to allow for adequate consideration of the present and future costs and benefits of local government regulation but these policies can be influenced by local and central government politics, international financial circumstances and business lobbying. Local and central government do, overall, attempt to make good regulations to protect, enhance and maintain a high standard of living for our citizens.

It is difficult to single out one piece of central government legislation that has significant funding implications since they all have some costs associated with them. The real question is, if they all became centralized, would the community be better off in regard to costs and service delivery? In some instances this maybe the case such as dog licensing, café registration for health and hygiene standards, water quality standards plant upgrades in small communities and implementation of traffic speed limits. However, if it is the hearing of a small resource consent for a local activity, then the delivery probably would be at a local government level.

Central government could facilitate local government costs, design and implementation either by doing the implementation and monitoring for compliance directly or co-funding by way of a grant to assist local government in fulfilling central government legislation functions. This was successful for the upgrading of water quality standards in small communities.

The types of regulatory functions that adapt best to coordination include planning policy such as having consistency of rules regarding land use activities and economic growth incentives.

An example of regulatory cooperation and coordination in our region is the establishment of Future proof and Local Authority Shared Services Ltd (LASS). LASS currently has two operations under its umbrella for the Waikato region and they are: Shared Valuation Data Service and the Waikato Regional Transportation model. Neither are for regulatory functions but there is no reason why the role could not be expanded.

The most important factors for successful regulatory coordination are open communication between local authorities, central government and the political willingness to cooperate between the different levels of government.

It goes without saying that there will be opportunities being missed for regulatory coordination at all levels of government and hence Waikato District Council is supporting this review being undertaken by the Commission. The main barriers to regulatory coordination are the same as those for successful regulatory coordination, namely, open

communication and cooperation between the different levels of government. Size, however, should not be the only criteria for amalgamation because a large organization can create its own set of complexities and not provide the perceived cost benefits as originally stated. There needs to be other community drivers for changing the regulatory regime between the different levels of government. Waikato District Council believes that iwi rohe areas could be a logical geographical unit for local government to engender consistence around regulatory performance functions to increase cost effectiveness and efficiency. This links well to our current co-governance and co-management agreement.

Examples of a local authority mutually recognizing each other's regulations, in our region, is the zoning of industrial land in Waipa, Waikato District and Hamilton City, through Future Proof, which was in turn informed the proposed Waikato Regional Council RPS; and the use of the Hamilton Development Manual by the same three councils regarding engineering standards for infrastructure and sub-division.

The areas of greatest local authority regulatory burden on businesses and individuals would be planning and land use inconsistency, environmental regulation and governance. These particular areas are costly because they are complex, open to differing interpretation, time consuming and very prescriptive.

To minimize these compliance costs and complexities some local authorities have tried to have a 'one plan' or 'unitary plan' so that it is a one stop document to refer to for compliance. Another example, is to have a joint hearing and release the decisions together and have the rules mirror both sides of the local authority boundaries.

One possible area of cost reduction for business and local authorities regarding approval, monitoring, enforcement and appeals would be the appeal process. Another could be the minimization of duplication of services, for example, earth works.

With the introduction of the LTP process, TAFM, and more thorough Auditor-General instructions regarding auditing of council finances, local authorities have seen greater alignment of spending and funding. One difficult area for local authorities is the management of the planning process under the RMA and the cost of that process to accurately budget for.

Examples of where cost recovery is reducing compliance with regulations and reducing their effectiveness would be earth works, fill placement and building conversions where it is sometimes cheaper to do an activity without a consent and hope you do not get caught rather than comply.

Waikato District councillors' involvement in administration and enforcement regulation is limited to hearing resource consents. To date this has not raised issues regarding the quality of regulatory decision making or outcomes given that they rely on technical reports with recommendations.

Other governance issues that have the potential to impede the efficiency of local government regulation would be the understanding or lack of, for new councillors, of the difference between the role of governance and management; conflict of interest; and a personal political agenda.

In general there are sufficient timeframes for reviewing existing regulation. If it is too often then local government could become gridlocked into reviews and not actually doing any business as usual for our communities.

A 'one size fits all' approach as to who should be responsible for reviews will not necessarily be cost effective or efficient and therefore it would be council's view that in some instances the responsible agency could do the review but on other occasions it would be more appropriate to have an independent body.

The four levels of: mediation; arbitration; district/environment court; and High Court as dispute resolution mechanisms are more than adequate for resolving disputes. There have been occasions where the Environment Court has been used for anti-competitive and frivolous reasons but this has been taken up by the court and is now less of a concern.

The question regarding effective monitoring of local government regulation is misleading in that it is not whether there is monitoring but what is done with the monitoring after it is completed and are the results acted upon? The biennial RMA survey is a good method of measuring regulatory performance and is taken very seriously by councils and the scope of that RMA survey could be expanded if necessary to cover areas where the monitoring is weak.

When there is a feedback loop for monitoring, sometimes it can take a considerable amount of time to be communicated to the affected parties and follow up actions taken are minimal. This is one of the weakest links of local/central government communication.

The challenges for local government in sourcing data for better practice regulatory performance measures is they are more than likely to be from an international source and require adaptation to the New Zealand context. The cost of something new being tried is a consideration and community reaction can be challenging.

It is not a matter of what kind of regulatory performance measure would add maximum value to local authorities, their communities and New Zealand, but rather, added value comes when all levels have the correct information to make an informed decision. Regulation measures do not sit in isolation from the other core functions of local authorities. Would it not be better to have less regulation and easier interpretation and implementation for local authorities? The difficulty with just looking at regulatory performance measures in isolation is they are outcome driven by central government.

Therefore, the question for central government is what information/measures are missing for them to make good legislation under which local government can operate?

Waikato District Council uses performance indicators for good input, output and outcome measures through an internal corporate and operational plan driven by projects linked to staff KPIs, promapping processes and monitoring the effectiveness of the district plan through the state of environment reporting.

Good centrally provided data that would enhance the local government regulatory regimes could include more information being available on central government websites.

The specific characteristics of individual local authorities that make local authorities comparable with regard to their regulatory performance include:

- Demographics
- Size
- Location/geography
- Capacity/capability
- Common issues
- Economic development
- Shared services
- Social circumstance

As mentioned previously it is always healthy to have a third party evaluator measure customer service standards in local authority regulatory functions to provide feedback on good practice and areas for improvement as long as the third party is well-qualified and impartial. Frequency is another issue that would need to be clarified if this is to be a regular function.

### Conclusion

Waikato District Council supports the broad intention of the Productivity Commission to improve regulatory performance of local government. There are ways to reduce the cost of regulation for communities and business in the area of Resource Management Act (RMA) 1991 plan preparation and review. Councils are looking at methods to work more collaboratively in this area such as the Future Proof model. However, improvement in local government regulatory performance is going to be heavily influenced by the type of legislation that is delivered from central government. The size of a council does not necessarily drive the costs up or down. Some small councils are very cost-effective for their communities and large ones are not. Capability and capacity are often the result of good staff resourcing and good governance, not size.

Waikato District Council does not dispute that there is room for improvement in the areas of consistency and amount of regulatory functions that local government manages.

Council is willing to speak to this submission.