

Efficiency & Efficacy of Local Government Policy and Planning Processes

1. Introduction

1.1 My name is Lynda Weastell Murchison. I have a MA degree in Geography (Public Policy and Environmental Management) and am a full member of the New Zealand Planning Institute.

1.2 I have worked as a planner and planning manager for nearly 25 years, for district and regional councils, for the iwi authority Te Runanga O Ngai Tahu and in private practice. I currently lecture at Lincoln and Canterbury universities in environmental planning and am completing my PhD. I also have background in farming and am the Immediate Past President of North Canterbury Federated Farmers.

1.3 I wish to raise with the Productivity Commission my concerns about the increasing costs of policy and planning processes being undertaken by councils, principally under the Resource Management Act 1991 (RMA), without any corresponding increase in the quality of environmental planning that results. There seems to be no check, other than through local body elections, on how councils go about preparing policy documents or plans, the efficacy and efficiency of their plan development and engagement processes, or the quality of the resulting plan. Often these issues are too technical in nature to be easily grasped by councillors unless they have a technical background in the issue. I wish to raise two types of issue, below.

2. Efficiency and Efficacy of Rules or Regulations

2.1 Under the RMA regional and district councils have powers, functions and duties relating to producing plans to manage the effects of activities on the environment. In those plans, councils may include rules to control activities. These rules have the force of regulations in statute.

2.2 In preparing such plans, councils have a duty under s32 of the RMA to evaluate the efficiency and efficacy of the plan including any rules; similar to a Regulatory Impact Assessment. The problem is that councils either do not do that assessment; or they do it retrospectively to justify the rule or regulation they have come up with.

2.3 Section 32 of the RMA has been amended several times by successive governments in an effort to clarify the requirement. The Act does not need clarifying in my opinion, the words are quite clear. The issue is councils do not do a S32 Report or do it well, possibly for two reasons:

- (i) There is a presumption or assumption within the planning profession that any real environmental issue should be managed by rules.
- (ii) There is no mechanism to enforce compliance with s32, other than to raise it as part of a submission on the plan when notified. Therefore the report tends to be tagged on to the end of a planning process that is (usually) by that stage over time and budget.

2.4 While the adequacy of the s32 Report can be raised in a submission at the local hearing, by that time the rule exists and if there is no substantive appeal rights on the Council decision, as is the case for regional plans in Canterbury since 2010, there is no further redress on the quality of the s32 Report.

2.5 There are numerous examples across New Zealand of rules in plans that impose significant compliance costs on people for little environmental benefit.

- Within Canterbury, we calculated the compliance cost of a rule requiring every farmer, no matter what they farm, to do a rolling average Overseer assessment as \$750 million annually; to manage what is an environmental effect associated with intensively grazing cattle. To their credit Environment Canterbury have since amended that rule in some parts of the region – though not all.
- Just this morning I was told of a landholder with 10.1ha of land and two sheep in a catchment in this region who has to obtain a resource consent to continue farming and has to prepare and have audited at least every three years a Farm Environment Plan.
- I am aware of several district councils who have introduced rules for farmers to have biodiversity plans to manage indigenous vegetation, despite evidence in one plan hearing of an ecologist estimating the cost to produce such plans for larger hill and high country properties as upward of \$50 000. Yet the farms that still have good stocks of indigenous vegetation do so because they are farmed on a low input-low output model.
- In another district an existing vineyard wants to expand its operation. Even though the vineyard was established many years ago a neighbour is now establishing a poultry farm on their land. Under the district council rules the poultry farm can establish as a permitted activity (no resource consent needed) and then once it is established every other landholder within 500m of that poultry farm cannot erect a dwelling, undertake visitor accommodation or have entertainment facilities without a resource consent.
- In that same example, even though the vineyard has international Demeter Biodynamic accreditation, they still require a discharge permit for nitrogen (even though grapes don't leach nitrogen) and have to have a Farm Environment Plan that follows the Regional Council template.

Suggestion:

All Councils before notifying plans or plan changes submit their proposed plan and s32 Report to an independent authority for review and audit. The result of that review and audit are presented to the Councillors before they approve the plan for notification. While this approach adds to the cost of plan preparation, it may well be more cost-effective than living with or trying later to fix inappropriate rules.

3. Efficacy and Efficiency of Plan Preparation Processes

3.1 My second concern is the resources going into the preparation of plans and planning processes by some local authorities, without robust analysis of whether the chosen approach is necessary or the most efficient and effective way to undertake that planning process.

3.2 The RMA requires councils to review their plans 10 years after they are made operative. Once the first generation of plans was prepared under the RMA, the idea was that they would only be amended on review to deal with new issues or if the provisions weren't satisfactory.

3.3 I am concerned at the number of councils who seem to be starting again from scratch; and who do not appear to be undertaking a review of the effectiveness of the operative plan provisions before deciding a rewrite is required; and the cost of that planning approach to ratepayers.

Examples:

- One district council rewrote their entire plan so they could have one written in a different style – activities-based rather than effects-based, even though there was no evidence the effects-based plan provisions were resulting in inappropriate environmental outcomes.
- Another council is undertaking a complete reassessment of the outstanding landscapes in their district, even though in the operative plan those areas were identified property by property by a landscape architect and there is no evidence that the operative plan provisions have failed.
- Implementing the Canterbury Water Management Strategy in Canterbury with a regional water committee, 10 zone committees and associated support staff meeting monthly since 2010, is a resource-hungry process. All Zone Committees have prepared Zone Implementation Programmes (ZIPs) but from my own involvement I believe the subsequent RMA catchment plans differ from the Zone Committee recommendations. I am aware of several committee members across various Zone Committees who have expressed their concern at those outcomes, and various community and environmental groups who no longer engage in that process because they feel it is a waste of time. Yet despite these outcomes that planning process continues.
- I have been anecdotally told of a catchment plan process that cost a regional council around \$13m; that does not include the cost to the community to engage in the process. That plan is already subject to an imminent plan change to deal with one rule that in my opinion is an example of poor planning practice, and the Zone Committee has suggested a complete rewrite is needed at its 10-year review.

3.4 There does not seem to be a check in the system, beyond the competency of individual staff members or Councillors, as to where ratepayer's funds are being spent prudently in the planning process. Rather the RMA gets the blame.

Suggestions:

- As part of the LTCP process, when Councils include expenditure for planning processes, they need to include an evaluation of the scope of the proposal, the methodology to be used and resources

required to an independent authority. The review and comments from that authority are considered by the Councillors alongside any staff recommendations and submissions when making their decisions to commit funds and how to engage in planning processes.

- For longstanding planning processes, such as the CWMS and Zone Committees, there should be a requirement to review and reassess the need for and efficiency and efficacy of the process before continuing.

Thank you for your time

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