

## **Submission to Rules Reduction Taskforce**

Attention: Rules Reduction Taskforce  
Department of Internal Affairs  
PO Box 805  
Wellington 6140

Ashburton District Council appreciates the opportunity to contribute to the Rules Reduction Taskforce's investigation into unnecessary rules and regulations.

Insofar as local government regulation is concerned, we would strongly recommend the Taskforce consider the findings of the Productivity Commission's 2012 enquiry. A number of the Commission's recommendations are directly relevant to this enquiry.

We would like to comment on some specific issues from a local government perspective as follows;

### **1. Building Regulation**

- (a)** Sometimes there are too many rules, but sometimes there are not enough. The Building Code allows the conversion of stand-alone proprietary garages such as Versatile and Skyline to a sleepout/gamesroom without building consent as long it does not affect fire code clauses. This means you do not have to consider structure, external moisture, smoke alarms, ventilation, insulation or natural light. This attempt to reduce rules often creates bad outcomes for building owners and leaves local Councils unable to address them.
- (b)** Under the Building Code garden sheds have to be their own height away from the boundary or other buildings. Everyone ignores this and puts them next to the boundary, so there is no point in having this rule.

### **2. Clean Air Regulation**

The Proposed Canterbury Air Regional Plan requires installation of home heating appliances to be authorised by the Home Heating Association. The Building Act allows any person to install burners/heaters, subject to passing final inspection by Council Building Inspectors. As drafted, the Air Plan seeks to impose additional controls beyond the regulatory controls of the Building Act as to who may install solid fuel heaters/burners. The Air Plan provides no evidence as to why existing Building Act requirements are not sufficient in controlling quality of installations. This is duplicative and inefficient for applicants. Furthermore, there are few accredited installers in Canterbury and the requirements for accreditation will mean that there will be a significant delay until there are sufficient numbers of installers to meet demand.

### **3. Ministry of Transport Regulation**

There are too many rules which make it difficult and expensive for Councils carrying out routine maintenance. For example, mower drivers require a “W” endorsement (wheels) as well as a regular drivers licence. This applies even if they are cutting grass in a domain. This requirement adds expense and delay for new recruits starting work. There are little to no similarities between a ride on mower and all the other types of equipment covered by a W Endorsement. Ride on lawn mowers have greater similarities to small tractors, which ironically are specifically excluded from the definition for W-endorsements. Another example is rules relating to road reserves. If you are operating a mower within 6 metres of a state highway you must have a pilot vehicle (which if adhered to all of the time would significantly increase the labour and plant costs of mowing) and this is regardless of whether it is a 50km or 100km speed area.

### **4. NZ Transport Agency Regulation**

The duties of a Traffic Controller versus Site Traffic Management Supervisor (STMS) are vastly different. The two day STMS training course is justified when performing the high level and high risk tasks, however the basic components around worksite set up should be included within the Traffic Controller level 1 course (1 day of training), as it is not practical to have a qualified STMS (3 days of training in total) set up road cones every time a gardener or mower operator is working near the road, especially when the task is of short duration such as removing leaves from drains.

### **5. Sale and Supply of Alcohol Regulation**

- (a)** The Sale and Supply of Alcohol Act 2012 requires routine licence renewals and managers’ certificates to have decisions written by a paid District Licensing Committee commissioner or chairperson. This function used to be carried out by a Council staff member, which was far quicker and cheaper.
- (b)** The Act requires temporary authorities to be heard by the full District Licensing Committee. This seems to be a mistake, because temporary authorities are merely to cover licensed premises that are changing hands. They have to be dealt with promptly so as not to hinder the sale. This is difficult to do when you have to arrange a hearing and it is an unnecessary expense, especially when it is the substantive application following the sale which is the most important.
- (c)** The Alcohol Regulatory and Licensing Authority requires hard copies from all Councils of all applications, decisions and licences. That is a massive amount of paper and a significant cost. It does not meet the Government’s stated aim of e-government.

### **6. Rules for Non-Financial Performance Measures in Long Term Plans**

The 2009 ‘Decisions for better transparency, accountability and financial management of local government’ directive sets the overall tone for the new reporting regime. For ratepayers to be properly informed about what they are getting for their money, improved inter-council comparisons with standardised non-financial performance measures for infrastructural services will be developed. To ensure we have simpler long-term plans, a new focus on crucial issues is required, with a streamlining of non-financial performance reporting to focus on major issues.

Supporting Cabinet papers state: ‘Although considerable attention is currently given by councils to the measurement and reporting of service performance information, it is not clear that this provides value for money to ratepayers.

Public submissions on LTCCPs rarely make reference to specific performance measures and there appears to be little interest in council annual reports.’

‘... the system would be streamlined and focused on: ... mandatory benchmark performance measures/targets; and other significant performance measures/targets. Councils will be able to determine for themselves if additional performance information is required.’

‘There should also be a reduction in the costs associated with preparing LTCCPs and annual reports, and with monitoring performance.’

The Department of Internal Affairs was responsible for implementing Cabinet’s decisions on these matters. Like other stakeholders, Audit NZ participated in the consultative process run by the DIA in order to formulate the Non-Financial Performance Measures Rules, which came into force on 30 July 2014. In total, there are 19 mandatory infrastructure performance measures. Five mandatory measures apply to the activity Roads and Footpaths. The DIA’s supporting information states ‘The performance measures are intended to measure the major aspects of the services concerned, which is the provision of roads and footpaths.’ ‘The performance measures will measure only the most important aspects of each group of activities.’

Ashburton District Council does not perform a Flood Protection and Control Works activity, so is not required to include the one mandatory performance measure that applies to that activity. ADC’s proposed Long Term Plan for 2015-25 relies on the other 18 mandatory measures for the applicable infrastructure activity areas. For other Council activities a further 56 performance measures have been proposed. We have 74 performance measures proposed in total for our LTP, which we believe provides for a comprehensive non-financial reporting framework.

In Audit NZ’s Management Report to the Council, they advise ‘The Council has proposed a very narrowly focused performance framework for its transportation activity that only includes the mandatory performance measures. We believe that unless Council expands on the transportation measures, we may not be able to conclude that the Council is complying with section 93(6) of the Local Government Act 2002. If there are no changes, this could impact on our LTP opinion.’

The Council’s view is that it is doing precisely what Cabinet, the Minister of Local Government, and the DIA asked it to do. We have streamlined as directed. We are using the 5 new mandatory roads and footpath measures for this activity as required. Audit NZ states ‘The measures identified by Central Government focus mainly on urban councils, not rural councils.’ Audit NZ’s opinion appears to be at odds with Government’s directive and advice to the local government sector. The mandatory performance measures are there to measure the major aspects of the roads and footpath services, surely, for all councils. Five measures for an activity are in fact quite a lot of measures. That’s quite a lot of reading about performance!

The DIA’s supporting literature allows councils the choice of adding additional voluntary performance measures to the mandatory measures. Unsealed roads is a case in point. But the material also highlights that requests for inclusion of mandatory unsealed roads measures were not agreed to, stating ‘... the

submitters generally understood the difficulties associated with setting measures for unsealed roads'. With the DIA's 'value for money' comment and its acknowledgement of the 'difficulties' associated with unsealed roads measures, added to the fact that the 5 mandatory measures are meant to cover the major aspects of roads and footpaths for all concerned councils, we have chosen not to further clutter the statement of service performance with additional measures in the affected infrastructure activity areas.

This year the ADC (serving a resident population of approximately 32,000 people) and its 3 Council Controlled Organisations will pay Audit NZ well over \$300,000 in auditing fees. Supporting Cabinet papers state that 'the proposals for collecting and reporting non-financial benchmarking information will cost more to implement' (compared to the financial changes). '... Implementing standard non-financial reporting will require some councils to collect information they have not previously collected'. We note that when the new financial prudence, insurance and core asset disclosures took effect last year, Audit NZ wrote to the Council seeking additional funding, as they had not budgeted for this work when setting the audit fee.

We think that if Audit NZ and their parent, the OAG, really do think that the prescribed mandatory performance measure framework is insufficient for affected councils such as ourselves to meet the requirements of section 93(6) of the Local Government Act, then they should take this tension between their auditing standard and the DIA's rules up with the DIA independently. Informing the Council that its future annual reports may receive modified opinions because the mandatory measures don't cover all the most important aspects of an infrastructure activity for a rural council appears to be well out of step with what Parliament intended to occur here.

Of course, ADC will not risk receiving an adverse opinion on this matter. Various methodologies have been mooted and rejected over recent years for measuring unsealed road performance. Condition rating, roughness and customer satisfaction survey responses have all been rejected due to the difficulty of getting meaningful results. We have consulted with neighbouring councils and found that they also have difficulty in setting meaningful objective measures for unsealed roads. Nevertheless, if Audit NZ maintain its view, the necessary action for Council to take is to 'roll over' and 'bung in' a couple of grading frequency, quantum and quantity of metal loss annual measures, along with an annual resident satisfaction survey outcome on rural roads.

### **Suggested Solution**

Perhaps the Taskforce could reflect on the intent of the legislative reforms; whether the promulgated infrastructure measures are in fact 'fit for purpose' for all councils; and the value for money residents and businesses receive as a result of their local provincial council being told it needs to add in additional performance measures because the mandatory measures are 'mainly for urban councils'.

**Andrew Dalziel**  
**Chief Executive**