

**LOCAL GOVERNMENT ENVIRONMENTAL
MANAGEMENT**

A Study of Models and Outcomes

PARLIAMENTARY COMMISSIONER FOR THE ENVIRONMENT
AND
CONTROLLER AND AUDITOR-GENERAL

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Preface

Debates about the form, functions, and sizing of units of local government have continued despite the reforms of 1989. Issues of community of interest, geographical cohesion, rating base, and efficiency of policy and delivery function still fuel the debates. Also since 1989, the Resource Management Act 1991 and other environmental management legislation have been enacted – and thus the environmental management functions of local government have continued to expand.

A key component of the 1989 local government reforms and the Resource Management Act was for regional councils to have a dominant role in environmental management through their regional policy statements. However, not all areas could support both regional and territorial authorities. Thus a unitary authority – Gisborne District Council – was created with responsibilities for both. In 1992, following extensive political debate and citizen referenda, three more unitary authorities – Marlborough District Council, Nelson City Council, and Tasman District Council – were created.

In recent years there has been increasing debate about local government functions, access to and quality of local authority services, and levels of rates and user charges. In common with much of the governance effort of the last 15 years, this debate has led to an increased focus on the economic efficiency of local authority operations – resulting in a number of calls to combine more regional and territorial functions into unitary authorities. But enthusiasm for the unitary model appears to have included little consideration about any risks to local government environmental management responsibilities.

Recognition that there was little robust information on the functional aspects of environmental management by unitary authorities to underpin sound debate led to our two offices combining resources to undertake a study of the model.

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Executive summary

This study began as a study of environmental management in the unitary authority model of local government. As the investigation and analysis proceeded it became clear that the key features that contribute to desired region-wide environmental outcomes are more significant than the institutional form or model of local government.

The findings of this report draw on information gathered from all four existing unitary authorities and four examples of the regional council / territorial authority dual model of environmental management. While this study could only examine the two types of models currently operating, it found that other potential arrangements for delivering environmental outcomes need to be explored by local government.

Assessment of the relative cost or operational efficiencies of combining regional council and territorial authority environmental management functions into a unitary authority are not within the terms of reference of this study, nor is an assessment of the performance of the individual councils that participated in this study.¹

¹ From time to time the Parliamentary Commissioner for the Environment or the Auditor-General may investigate the performance of individual local authorities.

Key messages

There are more significant factors in determining effective local government environmental management than the nature of the model.

The unitary authority model is as capable of delivering sound, integrated environmental management as any other model, provided that these other more significant factors are addressed.

The actual model adopted by local government to achieve effective environmental management needs to reflect the diversity of environmental issues of the regions and the socio-economic, cultural and biophysical outcomes desired by the communities involved (ie 'one size does not fit all').

Assessment of the unitary authority model

Evidence from this study suggests that the unitary authority model can be an effective alternative model of integrating environmental management and delivering environmental outcomes, provided that it incorporates a number of key features of an effective environmental management system identified in chapter 4 of this report.

However, this does not necessarily imply that the unitary authority model will be appropriate in all regions/districts. This is in part due to the following observations:

- experience of the application of the unitary authority model of environmental management is limited
- the wide range and diversity of local authority jurisdictions in New Zealand precludes a single approach to environmental management being adopted.

Key features of an effective environmental management system

In the course of this study a number of features have emerged as significant factors that contribute to the delivery of sound, integrated environmental management, and the achievement of region-wide environmental outcomes irrespective of the model of local government adopted. These include the following.

Integrated management

The integrated management responsibilities of local government under the Resource Management Act 1991 (RMA) are not model-dependent. Integrated management requires a commitment by elected representatives and management in whatever model of local government exists to take a leadership role in environmental management, and to integrate:

- its internal structures and processes
- its short- to long-term strategic focus and region-wide perspective on environmental management
- the management of external relationships (ie the ability to work in partnership with tangata whenua², other agencies and stakeholders)
- the region's environmental as well as socio-economic and cultural inter-relationships
- the policies and methods (eg regulatory and non-regulatory approaches) adopted by the council
- the interests and values expressed by the community, tangata whenua, and resource users.

Environmental outcomes

Any future proposals to review the form of local government, including the system of environmental management, should first focus on the environmental outcomes sought, then consider the most appropriate structure, systems, resources and linkages to deliver those outcomes (ie form should follow function). In stating and reporting on the environmental outcomes sought it is important that local government:

- states clear and measurable outcomes (including interim targets for long-term outcomes) that enable progress in achieving them to be assessed
- shifts attention from outputs to outcomes as a measure of environmental management performance
- links its output priorities to the environmental outcomes being sought
- establishes a monitoring regime (eg state of the environment monitoring and reporting) capable of measuring progress towards meeting environmental outcomes

² People of the land, Maori people

- maintains the necessary capability to undertake the monitoring, analysis, reporting and review of environmental outcomes and associated policies and plans
- maintains or shares a critical mass of skills, and ensures that allocation of financial resources is appropriate to the outcomes being sought
- develops appropriate internal management structures designed to achieve environmental outcomes
- develops and maintains appropriate and effective relationships with tangata whenua, local communities and key stakeholders to ensure that environmental outcomes are relevant and achievable.

Separation of regulatory and service delivery functions

The Local Government Act 1974 (LGA) requires that ‘so far as is practicable’ councils must ensure that their regulatory functions are separated from their other functions (eg service delivery) to avoid any conflicts of interest where the council may be both the regulator and the regulated. All councils have a mix of these functions. It is important, therefore, that local government:

- clearly defines its statutory responsibilities and avoids possible overlaps with other agencies
- gives appropriate effect to statutory responsibilities, including the clear separation of potentially conflicting functions
- establishes structures, systems and processes that ensure transparent decision-making and avoid any conflicts of interest
- establishes conflict resolution processes that seek to resolve environmental management disputes and avoid internal or inter-council litigious situations arising
- makes appropriate use of independent commissioners to make decisions on council consent applications
- co-ordinates its regulatory and service delivery activities in a way that contributes to the achievement of environmental outcomes.

Interaction with the public

Local government must be responsive to the needs of the communities it represents and is funded by. Issues that local government needs to consider in its interaction with the public on environmental management matters include:

- improving public awareness of the council's role and responsibilities with respect to environmental management
- facilitating easy access to services and information that assist environmental management processes (eg consent application processing and opportunities to participate in the decision-making processes)
- encouraging public and resource users' confidence in the delivery of services and environmental outcomes, and trust in the decision-making and compliance monitoring processes.

General issues

A number of general issues that relate to the delivery of integrated environmental management have been identified in the course of this study. They include:

- the need to establish and maintain formal joint arrangements between councils where there are issues associated with cross-boundary jurisdiction or management of a shared resource (such as a catchment area)
- the potential loss of specialist skills (such as rivers control engineering) that are not being replaced in councils nor are readily available in the private sector, and that could affect a council's environmental management capability
- the need for national guidance on a consistent approach to local government environmental outcome setting and evaluation
- the uneven distribution of financial resources among councils, and the effect this has on their ability to deliver environmental outcomes.

Recommendations

It is recommended that:

Unitary authorities

1. unitary authorities subject their environmental management performance to routine, independent audits, and that the results of such audits be made public (see section 3.3.1)

All councils (individually)

2. in situations where matters relating to council consent applications are resolved internally under delegated authority between groups within the council, councils keep records of agreements and decisions reached (see section 3.4.4)
3. councils review their current resource management practices to ensure that priority is being given to monitoring, reviewing and reporting on the overall effectiveness of their environmental management (see section 3.5.3)
4. councils review their current environmental management structures, systems and practices in light of the *key features of environmental management systems* outlined in this report (see chapter 4)
5. councils investigate options for inter-council arrangements to achieve effective, efficient, and integrated resource management outcomes (see section 4.1.2)

Local government (collectively)

6. local government collectively identifies specialist skills which may exist only on a nation-wide basis, and develops a system for accessing such skills (see section 4.2.3)

All councils (individually)

7. where there are actual or potential boundary issues affecting environmental outcomes, councils establish joint formal arrangements for managing shared natural or physical resources (see section 5.1)

Local government (collectively)

8. local government collectively undertakes a detailed analysis of its human resource needs to ascertain its capability to undertake current and emerging environmental management responsibilities and, if necessary, invest in appropriate training programmes to meet potential shortfalls (see section 5.2)

Minister for the Environment

9. the Minister for the Environment gives priority to the provision of national guidance to local authorities on the setting and evaluation of environmental outcomes (see section 5.3)

Central and local government (collectively)

10. any future proposals to restructure local government should emphasise the need for effectiveness and efficiency in achieving environmental outcomes (see section 5.3).

1 Introduction

This report outlines the findings of a study of the unitary authority model of local government environmental management, in contrast to the more common regional council / territorial authority dual model, with a focus on the delivery of environmental outcomes.

The purpose of the study was to assess how the unitary authority model *functions* in terms of having environmental management responsibilities of both a regional council and a territorial authority. It did not set out to be an evaluation of the *performance* of each individual council that participated in this study, but an examination of the issues influencing how unitary authorities undertake their environmental management responsibilities and what could be learned from the information gathered from the examples of both the unitary and dual models studied.

The analysis in this report examines:

- the characteristics of the four unitary authorities
- the issues that determine how the unitary authority model functions to achieve integrated management of natural and physical resources of the region, and of the effects of the use, development or protection of land and associated natural and physical resources of the district (ss 30 and 31 of the Resource Management Act 1991)
- factors affecting the delivery and achievement of environmental outcomes
- general issues that arose in the course of the study.

The report highlights a number of key features of local government environmental management that contribute to sound, integrated environmental management and the delivery of region-wide environmental outcomes. These were found to be more significant determinants of effective environmental management than the specific 'model' of local government.

Assessment of the relative cost or operational efficiencies of combining regional council and territorial authority environmental management functions into a unitary authority are not within the terms of reference of this study. It is difficult to compare the costs of each model because of the difference in range of functions, the limited experience of the unitary authority model across a wide range of situations, and the difficulty in identifying the cost of achieving environmental outcomes (and not just process and output costs and efficiencies).

2 Background

2.1 History of unitary authorities

Local government in New Zealand currently consists of 12 regional councils, 70 territorial authorities, and four unitary authorities – Gisborne District Council, Marlborough District Council, Nelson City Council and Tasman District Council.

The Local Government Act 1974 (s 37N) refers to a unitary authority as exercising the functions, duties and powers of both a *territorial authority* (in respect of the district for which it is constituted) and a *regional council* (in respect of the region under its control).

During the lead-up to the 1989 local government reforms, single authorities were intended to be the exception rather than the rule in the interests of achieving adequate separation between regulatory and service delivery functions of local government.³ Gisborne District was recognised to be exceptional by virtue of its location, geographical boundary and community of interest. There was overwhelming support in the area for a single combined region/district. The Gisborne District Council was established as the first unitary authority, with effect from 1 November 1989 by Order in Council.⁴

In 1992, following the Government's review of regional councils' functions and responsibilities, the Minister of Local Government carried out a survey (postal ballot) of residents and ratepayers in the Nelson, Marlborough, Tasman and Kaikoura districts on the future of their regional council – the Nelson-Marlborough Regional Council (N-MRC). The survey had a response rate of 53%, and the residents of Marlborough, Nelson and Tasman districts who did respond voted overwhelmingly in favour of the abolition of the N-MRC. Among the residents of Kaikoura there was a

³ Parliamentary Commissioner for the Environment (PCE), 1990. *Gisborne District Council – Environmental Management – A Systems and Processes Review*. PCE, Wellington, pp. 4 & 6.

narrow margin in favour of retaining the N-MRC. The residents of Kaikoura eventually chose to retain the Kaikoura District Council as an independent territorial authority within the region administered by the Canterbury Regional Council.

On the basis of the 1992 survey, the Government subsequently passed legislation to abolish the N-MRC. Three new regions were constituted in respect of Nelson City, and Marlborough and Tasman districts, and the three territorial authorities were vested with the powers, functions and duties of both regional and territorial authorities.⁵

2.2 Origins of this study

Debates and proposals about the structure of local government have been taking place in a number of forums over several years. During the development of the Local Government Commission's 1989 reforms, the unitary authority model was under consideration as an option for Gisborne District and a few other districts (but not including Marlborough, Nelson and Tasman). Time constraints meant that the Commission was unable to explore the viability of any districts other than Gisborne becoming unitary authorities.⁶ More recently, the Local Government Commission considered submissions on the reform of local government in Hawke's Bay, initiated by Hawke's Bay Regional Council. One of the options under consideration was the establishment of a unitary authority for the region.⁷

There is a view that the unitary authority model overcomes some of the potential problems that may be attributed to functional overlaps in the dual system of regional councils and territorial authorities, and that it is consistent with the *integrated management* approach promoted by the Resource Management Act 1991 (RMA). An alternative view suggests that combining the two sets of functions into a unitary

⁴ Local Government (Gisborne Region) Reorganisation Order 1989, *New Zealand Gazette*, No 99, 13 June 1989.

⁵ Local Government Amendment Act 1992, ss 109–114.

⁶ Pers comm, October 1998: Sir Brian Elwood, Chief Ombudsman and former Chairman of the Local Government Commission during the 1989 local government reforms.

⁷ Hawke's Bay Regional Council, 1997. *Hawke's Bay Local Government Study*. Hawke's Bay Regional Council, Napier.

authority has the potential to create conflicts of interest between councils' *regulatory* and *service delivery* roles, and that short-term demands to fund district services and infrastructure are likely to receive higher priority than achieving longer term environmental management objectives and outcomes.

The Parliamentary Commissioner for the Environment and the Auditor-General recognised that there was insufficient evidence-based information on unitary authorities' environmental management to properly inform any debate about the suitability of the unitary authority model as an alternative to the regional council / territorial authority model in relation to the delivery of environmental outcomes. This led to an agreement that the two Officers of Parliament would combine to undertake a joint independent assessment of the unitary authority model. A brief outline of the roles of the Parliamentary Commissioner for the Environment and the Auditor-General is given in Appendix 1.

2.3 Methodology

The study consisted of four stages as outlined in its Terms of Reference (see Appendix 2) and illustrated in Figure 1.

Three sets of reports have been produced, consisting of:

- a) a total of eight case studies involving visits to four unitary authorities and four regional councils (including three territorial authorities⁸ in each region), and interviews with councillors and senior managers as well as a number of individuals and organisations that have had dealings with unitary authorities. The assessment of the delivery of environmental management was also based on

⁸ The territorial authorities visited were: New Plymouth District Council, Stratford District Council and South Taranaki District in Taranaki; Christchurch City Council, Timaru District Council and Waitaki District Council in Canterbury; Rodney District Council, Manukau City Council and Franklin District Council in Auckland; Invercargill City Council, Southland District Council and Gore District Council in Southland.

documentary evidence and observations of the range of styles and methods adopted by the case-study councils

- b) two overview reports summarising the observations⁹ from, in one case, the unitary authorities studied and, in the other case, the regional councils and territorial authorities studied
- c) a final report (this one) that analyses the unitary authority model and identifies the key features of an effective environmental management system with reference to the previous two sets of reports.

The assessment of the unitary authority *model* was based on criteria identified in section 5 of the Terms of Reference. In order to contrast the unitary authority and regional council / territorial authority models, the same criteria were applied to both.

A total of 192 people were interviewed during the course of the study. These comprised:

- 34 councillors
- 141 council senior managers and staff, including iwi¹⁰ liaison officers
- 17 ‘stakeholders’¹¹ representing central government (Ministry for the Environment and Department of Internal Affairs), Local Government New Zealand, Local Government Commission, consultants, nationwide industries, an environmental organisation, and individuals representing local iwi or with a historical perspective or local knowledge of local government.

The study team visited each case-study location. During each visit the study team examined councils’ internal structures and processes to meet statutory environmental

⁹ The case-study and overview reports are working papers that contain no analysis, only observations from the interviews conducted by the study team and the documents obtained from the case-study councils. Summaries of the unpublished overview reports can be found on the Parliamentary Commissioner for the Environment’s web site at www.pce.govt.nz.

¹⁰ Tribal groups

¹¹ These are groups, organisations or individuals who interact with both unitary authorities and regional councils / territorial authorities.

management responsibilities, and observed their non-regulatory approaches to environmental management and their relationships with external organisations. At the completion of each visit, the study team presented a summary of its preliminary findings. This was followed up later with a draft case-study report sent to each council's chief executive for verification that it was an accurate account of the council's environmental management system as observed by the study team.

Throughout the course of the study a steering group consisting of senior management representatives from both the Offices of the Parliamentary Commissioner for the Environment and the Auditor-General maintained an overview and provided direction for the study.

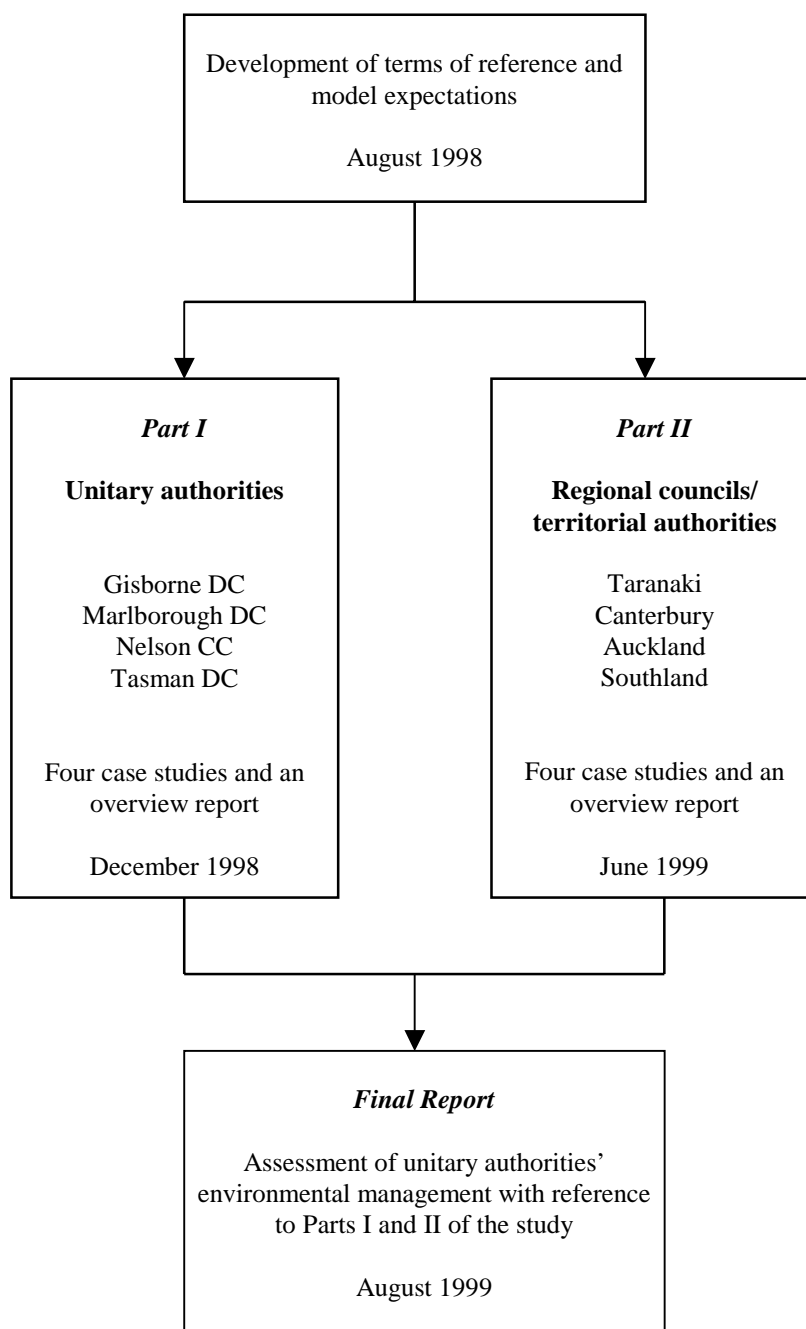
This report has been reviewed by one internal and five external reviewers.

This study did not set out to be an assessment of the performance of individual councils. To have done so a different approach would have been necessary, involving a more thorough examination of progress towards meeting environmental outcomes.

This report does not cover in any detail issues associated with tangata whenua participation in local government environmental management. Such issues have already been covered in a much more comprehensive report by the Parliamentary Commissioner for the Environment.¹²

¹² Parliamentary Commissioner for the Environment (PCE), 1998. *Kaitiakitanga and Local Government: Tangata Whenua Participation in Environmental Management*. PCE, Wellington.

Figure 1: Outline of the programme for the unitary authority study



3 Analysis of the unitary authority model

The unitary authority model is analysed by examining the manner in which environmental management is undertaken in four districts in New Zealand, and contrasting this with the approach adopted by four examples of the regional council / territorial authority dual model. The purpose of the analysis is to determine the significance for sound, integrated environmental management and the implications for the delivery of environmental outcomes of the unitary authority model, and to comment on issues that influence the effectiveness of this model.

3.1 Characteristics of the unitary authority districts studied

Features such as the physical environment, population, economy and the social environment of each existing unitary authority's district show many similarities.

Common characteristics include total annual revenue (\$30–50 million) and population size (38,000 to 46,000, or just over 1% each of the country's total population). Most residents live within the districts' urban areas – from 57% in Tasman to 95% in Nelson. Three of the unitary authorities cover land areas of similar size (8,300 to 10,500 square kms). Nelson City covers a land area of only 421 square kms.

Having a well-defined geographical boundary and 'community of interest' are features of both Gisborne and Marlborough, where each community identifies strongly with the district and no significant division appears to exist between the interests of their respective rural and urban communities.

Nelson and Tasman share responsibility for managing some significant natural resources, including Tasman Bay and the Roding River. They have a number of distinct communities within the two districts (eg Golden Bay, Waimea plains and Nelson City). Tasman District is mainly a rural-based economy while Nelson City is predominantly urban, with features common to any urban area of New Zealand.

Nelson City is exceptional within the current unitary authorities with its highly urban focus and restricted 'regional' issues.

The range of environmental pressures placing demands on unitary authorities include:

- solid waste management
- land disturbance and vegetation clearance
- land instability and soil erosion
- rivers management and flood protection
- marine farming
- tangata whenua values and concerns
- wastewater treatment and disposal
- urban growth
- urban water supply
- competing demands for rural land use
- cross-boundary issues such as catchment management
- contaminated sites
- water quality and quantity.

3.2 Characteristics of the regions studied

The land areas of the regions examined in this study range from 5,024 square kms (Auckland) to 45,350 square kms (Canterbury), and their populations from around 100,000 (Taranaki and Southland) to approximately 1.1 million (Auckland).

Total annual revenue in 1998/99 for the regional councils ranged from about \$8 million (Taranaki) to over \$118 million (Auckland).

There is little evidence of regional councils having transferred functions, powers or duties under s 33 of the RMA, with the exception of Auckland Regional Council, which has transferred some air discharge permit functions, including compliance

monitoring and enforcement, to a number of territorial authorities in the region. Some functions such as noise control and building control in the coastal marine area are identified in regional coastal plans as being the responsibility of territorial authorities. Elsewhere, the absence of functions or powers being transferred seems to be attributable to concerns including:

- regional councils' lack of confidence in territorial authorities' capabilities
- reluctance among territorial authorities to undertake additional functions without the necessary funding or the ability to recover the costs of carrying out the functions
- the requirement, under the RMA, that the transferring authority retains the responsibility for the exercise of the functions, duties or powers it transfers.

In three of the regions studied there were territorial authorities (Stratford, Franklin and Waitaki District Councils) whose boundaries straddled two regional council boundaries. This resulted in increased demands on those territorial authorities to ensure that their district plans were not inconsistent with two sets of regional policy statements (RPSs) and regional plans.

The range of environmental issues that are significant in terms of the regional councils' expenditure include:

- urban growth and transport-related issues in the metropolitan regions of Auckland and Canterbury
- plant and pest management
- catchment management
- control of discharges from dairy sheds
- management of water quality and quantity
- air quality management
- sustainable land management
- coastal management.

This study has found that the relationship between the regional council and territorial authorities, and the type of leadership demonstrated by the regional council, are important factors in determining the nature of environmental management within a region. The relationships ranged from 'difficult' through 'improving' to 'very good'. There was evidence of efforts being made to build stronger relationships between regional and territorial arms of local government and to work together to:

- address region-wide issues such as urban growth and transport
- achieve an improved environmental management system
- achieve the environmental outcomes sought by both regions and districts
- avoid the need for litigation as a means of resolving differences between councils
- improve the public's perception and understanding of local government's roles in environmental management.

3.3 Functional issues

An indicative range of environmental management functions of local government (regional councils, territorial authorities and unitary authorities) is outlined in Figure 2.

Regional councils and unitary authorities have responsibility for 'regional' environmental management functions, but only unitary authorities have *sole* responsibility for both regional and territorial authority functions under the RMA and other statutes.

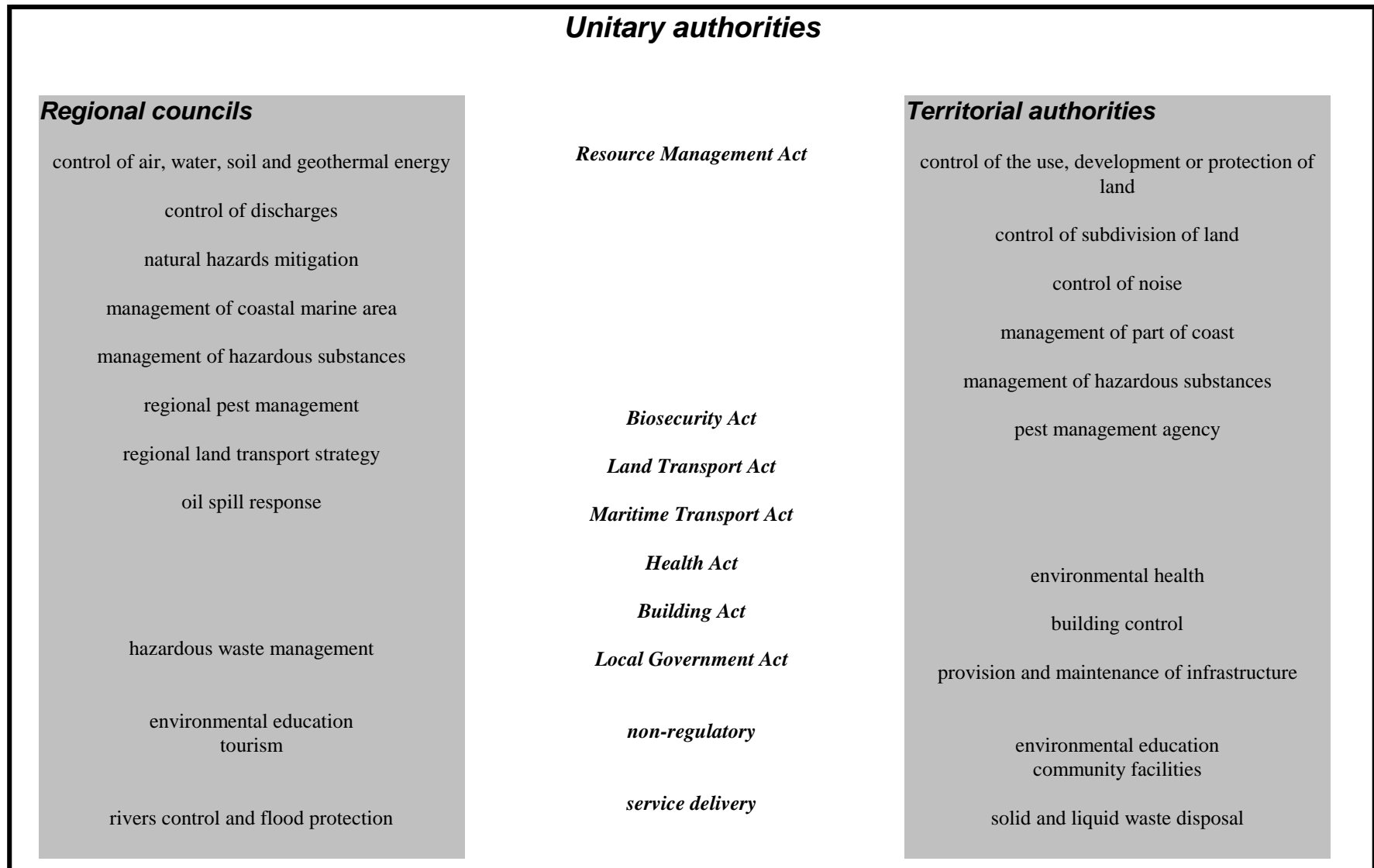
Regional councils and unitary authorities are required under s 30 of the RMA to establish, implement and review objectives, policies and methods to achieve:

'... integrated management of the natural and physical resources of the region'.

In addition, under s 31 of the RMA (functions of territorial authorities), a unitary authority must also establish, implement and review objectives, policies and methods to achieve:

‘... integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district’.

Figure 2: Indicative range of environmental management functions of local government



In fulfilling their environmental management responsibilities, unitary authorities experience *pressures* but also *opportunities* that neither regional councils nor territorial authorities individually face. For example, unitary authorities' range of responsibilities includes the sustainable management of resources as well as social and economic development of their districts and the delivery of services, many of which may require resource consents. On the one hand, such a range of sometimes competing or conflicting roles could result in unitary authorities focusing less on the need for longer-term environmental management strategies. On the other hand, unitary authorities' responsibility for integrating the environmental, social and economic needs of a district, despite having the potential to give rise to internal tensions in the decision-making process, is entirely consistent with the principles of sustainable development as outlined in Agenda 21,¹³ to which New Zealand has made a commitment.

By its very nature, the unitary authority model embraces all aspects of local government, in contrast to regional councils, which have a well-defined set of environmental management responsibilities. On the basis of the observations made in the course of this study, the unitary authority model could be described as embracing the RMA concept of integrated management in terms of institutional structure and processes.

3.3.1 Structure

A feature of the unitary authorities visited during this study is their tendency to develop structures that merge regional and district environmental management functions to deliver outcomes. In one case, where regional council functions were transferred to a district council in 1992, the 'regional' functions were, until recently, maintained as a separate unit of what became a new unitary authority. However, experience led the unitary authority to decide to merge the regional and district

¹³ Agenda 21 is the common reference to the outcomes of the United Nations Conference on Environment and Development, Rio de Janeiro, Brazil, June 1992.

functions into a ‘seamless’ environmental management structure. The unitary authority considered that this had more advantages in terms of co-ordination and accountability.

Generally, unitary authorities do not now make any distinction between their territorial and regional functions, except where there is a statutory requirement for them to do so.

Properly structured systems established to integrate district and regional environmental management functions and responsibilities within a single organisation avoid:

- disputes among agencies, or sections within agencies, over jurisdictional matters
- confusion among resource users and the public over responsibility and accountability for environmental management.

Tensions that sometimes exist between regional councils and territorial authorities over shared responsibilities, such as those relating to the management of land and land use, and management of coastal areas, do not arise in the case of unitary authorities (although other tensions may be present in the administration of regulatory and service delivery functions). A unitary authority is a single centre of responsibility in its district for all environmental management decision-making. There are, by definition, no regional councils from which unitary authorities have to seek consents or with which unitary authorities can share or transfer responsibilities for aspects of local government environmental management, except in respect of cross-boundary issues.

Checks and balances

In the regional council / territorial authority dual model, regional councils can act as a check on the service delivery activities and environmental management responsibilities of territorial authorities, particularly where consents are granted and monitored by regional councils. In the absence of a corresponding external check on unitary authorities’ district service delivery activities and environmental management

responsibilities, there is the potential for environmental outcomes to be compromised. This raises the question of what checks and balances, other than consultation processes on policies and plans and appeals to the Environment Court, are appropriate in the case of unitary authorities to provide assurances about their environmental performance, particularly if more councils seek to become unitary authorities.

The Minister for the Environment's monitoring functions under s 24 (f), (g) and (ga) and residual powers under s 25 of the RMA provide opportunities to monitor the implementation of the Act, to investigate matters of 'environmental significance', and to appoint one or more persons to take over the functions of an under-performing local authority . However, a more formal, systematic process of auditing the environmental performance of unitary authorities may be necessary and, in fact, was raised as a suggestion by councils during the study. This is considered to be important in the case of unitary authorities because, in contrast to regional councils, they have district service delivery activities (eg waste disposal) that have the potential to adversely affect the environment.

Recommendation

That unitary authorities subject their environmental management performance to routine, independent audits, and that the results of such audits be made public.

3.3.2 Conflicts of interest

Unitary authorities are strongly aware of the need to separate environmental management (regulatory) functions from asset management and service delivery functions to avoid conflicts of interest where the authorities may be both the regulator and the regulated. If these functions are not clearly separated there is a risk that resource users and public confidence in the consent process, as well as the compliance and enforcement system, will suffer.

The risk of conflicts of interest arising within unitary authorities is higher than in either regional councils or territorial authorities because of the former's wider range of operational and regulatory functions. For example, as the consent applicant or holder as well as the consent authority for activities such as landfill waste disposal facilities and wastewater treatment, a unitary authority needs to ensure that the assessment and decision-making process is managed in a transparent manner.

In each case, unitary authorities recognise that an appropriate committee and management structure, clear and appropriate delegations of responsibility, staff capability and transparent decision-making processes are key components contributing to the proper administration of their wide range of responsibilities.

Although the manner and extent to which this occurs varies, in all cases regulatory functions are in departments separate from asset management and service delivery functions (and in one case in separate buildings). One council has further separated its asset management from its service delivery functions in a purchaser/provider arrangement. Another council has a policy of not permitting elected representatives to sit on both its regulatory committee and its works and engineering committee, to avoid potential conflicts of interest at the decision-making level. Others encourage a limited number of councillors to sit on both types of committees to increase councillors' exposure to a broad range of issues and considerations.

3.3.3 Skills

Unitary authorities' management of their broad range of functions encourages 'job stretching' and, in some cases, necessitates 'multi-skilling' among their staff. This is in contrast to many regional councils which, to a relatively greater extent, employ single-focus, specialist staff, particularly in soil, water and air quality sciences.

This study has found that the multi-disciplinary approach in unitary authorities is driven by a combination of the issues they have to manage, resource constraints, and

the need to meet the demands of having both territorial authority and regional council functions. Unitary authorities do not regard this as a weakness, but rather one of their strengths in that it appears to attract staff interested in gaining experience across all regional and territorial environmental management functions. It also contributes to what many within unitary authorities describe as their ‘pragmatic approach’ to environmental management.

The level of scientific and other expertise within unitary authorities varies, but in general they do not employ staff whose skills are highly specialised, unlike many of the larger regional councils. When they need such skills, unitary authorities tend to contract in external consultants for particular tasks. The costs and benefits of doing so, relative to the costs and benefits of recruiting and maintaining an in-house capability, is a matter that all councils have to consider.

The tendency towards multi-disciplinary, generalist skills among staff of unitary authorities can have benefits to an organisation that has broad-based responsibilities and a requirement for capabilities in managing a diverse range of issues. Although this study did not find evidence of specific problems associated with unitary authorities’ environmental management capabilities, risks to achieving environmental outcomes may arise if the organisation overestimates its capabilities in respect of understanding and dealing with issues requiring specialised knowledge. In the absence of in-house specialist expertise to deal with particular issues, it is important that any local authority not only seeks appropriate advice but also maintains an ability to critically analyse the advice it receives.

Elected representatives on unitary authorities face a broad range of environmental and other considerations in their policy and decision-making roles. As a result, they are in a position to gain a comprehensive knowledge of local government’s environmental management role and an appreciation of the links between environmental, social, cultural and economic factors.

3.4 *Integrated management and process issues*

3.4.1 RMA policies and plans

As part of their regional council and territorial authority responsibilities, unitary authorities are each required under the RMA to prepare a regional policy statement (RPS) and a district plan. Regional plans, except for regional coastal plans, are optional.

The purpose of an RPS, as stated in s 59 of the RMA, is to:

‘...achieve the purpose of the Act by providing an overview of the resource management issues of the region and policies and methods to achieve integrated management of the natural and physical resources of the whole region.’

The RPS is intended to provide the overall framework for integrated management to which all other plans must ‘have regard to’ and ‘not be inconsistent with’. The RPSs, together with regional and district plans, are the means by which councils state the environmental outcomes they seek to achieve, and how they intend to achieve them. Regional and district plans also establish the rules that apply to all resource users, including councils themselves.

Unitary authorities have adopted the practice of combining their regional and district plans into a single plan. This enables regional and district rules to be co-ordinated, consistent, and less likely to create confusion over jurisdictional matters. The only constraints are statutory provisions, which mean that some rules have to be clearly identified as either regional or district rules. For example, designations¹⁴ by a requiring authority¹⁵ override provisions of a district plan (s 175 RMA), but not a regional plan. Requiring authorities have, on occasions, requested unitary authorities

¹⁴ ‘Designation’ means a provision made in a district plan to give effect to a requirement made by a requiring authority (s 166 RMA).

¹⁵ ‘Requiring authority’ means a Minister of the Crown, a local authority, or a network utility operator approved as a requiring authority (s 166 RMA).

to distinguish in their combined plans between regional and district rules so that they can determine whether or not they have to comply with them.

A further issue for unitary authorities with combined plans is whether it is necessary for them to have a separate RPS. As a combined regional council and territorial authority there is no reason for any inconsistency between a unitary authority's RPS and its regional or district plans. A combined resource management policy and plan document would avoid any unnecessary duplication between the two types of documents. However, the RMA does not include any provision for a unitary authority to integrate its RPS with its combined regional and district plan. This may require a change to the RMA to give recognition to unitary authorities as separate entities and enable them to combine their RPS and plans if they so wish.

The combined plan approach reduces potential administrative duplication and sets out in a single document all the rules that govern the management of resources in a unitary authority's district. A single agency with a single set of rules may reduce the likelihood of either regional or district rules being overlooked, resulting in a potentially greater chance of compliance and of progress in achieving the unitary authority's environmental outcomes.

Having both regional and district planning functions enables unitary authorities to establish plans that integrate the environmental, social, cultural and economic outcomes sought for the district, and to assess the influence of one or more of these factors on the others. The regional council / territorial dual model can also achieve this where there is a commitment to 'partnership' to achieve environmental outcomes. In either case it is important to monitor the achievement and effectiveness of integrated management by councils, and whether this is leading to the desired environmental outcomes. Such monitoring needs to be done by councils themselves.

3.4.2 Consents

Unitary authorities claim that the unitary authority model as a ‘one-stop-shop’ for resource management advice, processing consent applications and monitoring has significant advantages for resource consent applicants.

The merging of regional and district functions has enabled unitary authorities to integrate the management of resource, building and other consents and associated information systems required for various activities within the district. For example, unitary authorities collect and maintain LIMs¹⁶ and PIMs¹⁷ information, and comments relating to flood, slip and erosion risks relating to resource and building consents for properties and land that can be easily identified on councils’ computerised GIS.¹⁸

Unitary authorities have a strong ‘customer focus’ in relation to their consent procedures, with an emphasis on streamlining procedures and minimising costs of the processes. However, it is important to recognise that there are interests other than those of consent applicants and consent holders that need to be taken into account. It is also important that the needs of the environment, tangata whenua and the wider community are not compromised.

3.4.3 Participation of tangata whenua

The wide range of environmental pressures on unitary authorities, outlined in section 3.1, are also examples of issues that potentially affect the values, heritage, cultural and spiritual taonga¹⁹ of tangata whenua. The means by which unitary authorities consult with tangata whenua on such issues, and involve iwi and hapu²⁰ in environmental

¹⁶ Land Information Memorandum under the Local Government Official Information and Meetings Act 1987.

¹⁷ Project Information Memorandum under the Building Act 1991.

¹⁸ Geographic Information System.

¹⁹ Valued resources, assets, prized possessions both material and non-material.

²⁰ Family or district groups, communities.

management, varies from council to council. Notable examples from the councils studied include:

- the appointment of a Maori Liaison Officer who reports directly to the chief executive; the role includes facilitating council's consultation with various communities and iwi, and involvement in the district's economic, social and cultural development
- the establishment of a Maori Advisory Group, which attends all the main committees of the council and is automatically included in consultation on all issues relevant to local iwi
- funding for the development of iwi management plans.²¹

The study found no evidence of any intrinsic feature of the unitary authority model that adversely impacts on its ability to meet Treaty of Waitangi obligations. Indeed the unitary authority model offers an opportunity to minimise the number of separate local government agencies with which iwi and hapu need to deal on resource management issues. Tangata whenua are often faced with developing partnerships with (and being consulted by) a number of different regional councils and territorial authorities with environmental management responsibilities in their rohe.²²

The importance of effective consultation and the factors that influence it have already been covered in a much more comprehensive report of the Parliamentary Commissioner for the Environment.²³

3.4.4 Accountability and transparency

The LGA requires every local authority, among other things, to establish clear objectives for each of its activities and policies (s 223C(1)). This involves them in

²¹ Iwi planning documents recognised by an iwi authority. They may include planning for social, economic and resource management issues based on tribal management and self development.

²² Geographical territory of an iwi or hapu.

²³ Parliamentary Commissioner for the Environment (PCE), 1998. *Kaitiakitanga and Local Government: Tangata Whenua Participation in Environmental Management*. PCE, Wellington.

preparing strategic plans, long-term financial strategies (LTFSs), annual plans and annual reports on their stated objectives. Together with state of the environment reports, they enable the progress and performance of councils in meeting their environmental outcomes to be measured and assessed.

The commitments in LTFSs, required under the Local Government Amendment Act (No 3) 1996, and the public process involved in developing and reviewing such strategies are intended to ensure that the allocation of funding is transparent. This is particularly important for unitary authorities that often have competing short-term district service delivery and long-term regional resource management needs to meet.

As the sole resource management and consent authority for a district, a unitary authority has a number of significant decision-making responsibilities. Some decisions will affect the council itself as a manager of assets and a deliverer (or purchaser) of services.

Unitary authorities' internal consent applications are generally prepared by their asset management or service delivery staff, sometimes with assistance from external consultants. In one case, the council employs a resource planner in the asset management group to prepare and submit consent applications, consult with the regulatory department and affected parties, and appear at consent hearings.

The manner in which unitary authorities deal with the notification of their consent applications differs. One council has a policy of notifying all its own applications as a means of being as transparent as possible. Others only notify those not covered by section 94 of the RMA (applications not requiring notification), as is the case with external consent applications.

In the case of non-notified internal consent applications, the study found that negotiations *within* councils (both regional councils and unitary authorities) between the applicant (service delivery or asset management group) and the consent-processing group can take place without any public input. In situations where matters related to council consent applications are resolved internally under delegated authority between

groups within the council, it is important that records are kept of agreements and decisions reached, particularly in relation to non-notified applications. This would further ensure transparency of the process for dealing with such consents. It also acknowledges the importance of managing delegated decision-making to ensure that the council, tangata whenua and the public are not 'left out of the loop' in terms of being able to identify issues that, cumulatively, are likely to affect the achievement of the council's environmental outcomes.

Recommendation

That in situations where matters relating to council consent applications are resolved internally under delegated authority between groups within the council, councils keep records of agreements and decisions reached.

Furthermore, while efficiency and transparency of processes are important features of an environmental management system, they need to be considered in the context of the overall achievement of environmental outcomes. Otherwise, process objectives, such as reducing consent-processing costs and time, may undermine the achievement of environmental objectives.

3.4.5 Decision-making

The extent to which decision-making is delegated to committees and staff varies among unitary authorities, as it does between regional councils and territorial authorities. Delegations, outlined in a delegations manual, are an important part of the environmental management process in any local authority and need to be regularly reviewed for any unforeseen effects they may have on environmental outcomes.

The general approach among unitary authorities is to delegate decisions on resource consent applications to hearings committees without having to refer the decisions to

the full council for ratification. Generally, these committees hear only about 5% of consent applications. The remainder (mainly non-notified, 'non-contentious' applications) are normally processed, under delegated authority, by regulatory staff.

In cases where councils' own notified consent applications have generated objections, all unitary authorities appoint independent commissioners to make decisions based on evidence from the councils' asset managers, comments from regulatory staff, and objections from any submitters. The circumstances under which commissioners are called upon to deal with council consent applications differ from one unitary authority to another. One council has a policy to use independent commissioners for all its internal resource consent applications; others appoint commissioners only for notified or contentious internal consent applications.

In one case the council has a policy of not appealing any decision made by an independent commissioner. This is intended to clearly signal the council's commitment to a transparent process and an independent judgement on its consent applications, regardless of the consequences. Other councils, however, consider that the ability to appeal against a commissioner's decision is important for any consent applicant regardless of who they are, and see this as an acceptable and fair practice.

3.5 Environmental outcome issues

3.5.1 Monitoring environmental outcomes

Councils' monitoring of their policies, plans and consents is an important part of the *plan, do, monitor and review* cycle commonly adopted as a systematic process for assessing the effectiveness of their environmental management. Together with state of the environment monitoring, it enables councils to determine their successes and areas where improvements may be necessary to achieve the sustainable management of natural and physical resources. In the councils studied there was a variable commitment to monitoring.

Processes and outputs, such as consent processing and plan development, which require councils to comply with statutory timeframes have generally received higher priority, in terms of allocation of resources, than activities such as state of the environment monitoring and assessment of progress towards stated environmental outcomes.

3.5.2 Reporting on environmental outcomes

Councils are generally not yet in a position to comprehensively determine the achievement of all their environmental outcomes or progress towards meeting them. This is because of the inherent difficulty in measuring environmental outcomes, a lack of sufficient monitoring and information, and the fact that many activities/outputs intended to improve environmental quality may not show results or trends for many years. It is also important to have measurable parameters in the initial outcome statements to ensure that proper outcome evaluation can take place.

The ability to combine regional and district state of the environment reports into a single document is a significant advantage of the unitary authority model in terms of measuring progress towards achieving environmental outcomes.

3.5.3 Environmental outcome strategies

The unitary authority model presents an opportunity to develop a set of fully integrated, short- to long-term strategic objectives for the full range of its activities, including regulatory, non-regulatory and service delivery functions that could together contribute to the achievement of a unitary authority's environmental outcomes. For example, the provision and maintenance of wastewater treatment facilities by a unitary authority could contribute to and complement an overall strategy for maintaining or enhancing water quality. Similarly, promotion of waste minimisation and recycling

schemes could help to reduce the demand for valuable land resources being used for solid waste disposal.

It is important that, whatever institutional form local government takes, councils develop strategies and allocate sufficient resources to monitoring, reviewing and reporting on the overall effectiveness of their environmental management.

Recommendation

That councils review their current resource management practices to ensure that priority is being given to monitoring, reviewing and reporting on the overall effectiveness of their environmental management.

3.6 Assessment of the unitary authority model

Experience of the application of the unitary authority model is so far limited to only one urban and three predominantly rural areas of New Zealand. As outlined in paragraph 3.1, the four unitary authorities share some common characteristics. Within this relatively narrow range of application a number of advantages of the unitary authority model, with respect to the delivery of environmental outcomes, have emerged from this study. These include:

- being a ‘one-stop-shop’ for all local government environmental management functions including the delivery of environmental outcomes
- integrating social, cultural, economic and environmental management in their policies, plans, strategies and institutional structures
- having clear responsibilities and accountabilities – no confusion or conflicts over environmental management roles and functions
- combining regional and district state of the environment monitoring and reporting

- having the ability to develop short- to long-term, strategic objectives for the full range of local authority activities (regulatory, non-regulatory and service delivery) that all contribute to the achievement of environmental outcomes.

Evidence from this study suggests that the unitary authority model can be an effective alternative model of integrating environmental management and delivering environmental outcomes, provided that it incorporates a number of key features of an effective environmental management system identified in chapter 4 of this report.

However, this does not necessarily imply that the unitary authority model will be appropriate in all regions /districts. This is in part due to the following observations:

- experience of the application of the unitary authority model of environmental management is limited
- the wide range and diversity of local authority jurisdictions in New Zealand precludes a single approach to environmental management being adopted.

4 Key features of a local government environmental management system

On the basis of our examination of both the regional council / territorial authority and the unitary authority environmental management systems, the following section outlines the essential features of an effective local government environmental management system that should contribute to the delivery of sound, integrated environmental management, and the achievement of region-wide environmental outcomes.

Councils should consider and prioritise each of the key features in light of their individual circumstances. They are intended as a guide to good practice rather than a prescription for success.

Recommendation

That councils review their current environmental management structures, systems and practices in light of the *key features of environmental management systems* outlined in this report.

4.1 Integrated management

The RMA places upon the local government system obligations to achieve the integrated management of *both* the natural and physical resources of the region, *and* the effects of the use, development, or protection of land and associated natural and physical resources of the district. The former role is undertaken by regional councils and the latter by territorial authorities.

The RMA does not, however, define what ‘integrated management’ means and it has been left to individual councils to interpret it as they see fit. They generally acknowledge the importance of an holistic approach to resource management, and the need for co-operation and co-ordination among agencies with shared responsibilities for resource management and a shared interest in environmental outcomes. A good example of one council’s interpretation of integrated management describes it as having the following dimensions:

- integration across resource systems (eg interconnected biophysical ecosystems)
- integration with social and economic objectives
- integration of actions across a range of time scales
- integration of responses across management agencies
- integration of actions within management agencies
- integration of methods to be used to implement policies
- integration with the cultural and spiritual values and resource management approaches of tangata whenua.

(Taranaki Regional Council RPS, p.14)

Unitary authorities combine the roles presently performed by both regional and district councils. However, the study found that *integrated management is not model-dependent*. An integrated environmental management system requires an organisation to, amongst other things:

- facilitate appropriate internal structures and processes
- manage external relationships
- think strategically.

These requirements are reflected in the key features identified by the study as contributing to achieving integrated environmental management.

4.1.1 Internal structures and processes

A unitary authority is a single centre of responsibility in its district for all functions of local government under the RMA and other relevant legislation. All environmental management decisions have to be taken by a unitary authority. Unitary authorities, in this regard, view their system of environmental management as being an integrated approach to achieving their environmental outcomes.

In the regional council / territorial authority model integrated management needs to recognise that both regional councils and territorial authorities have statutory obligations under the RMA and other statutes. This shared responsibility requires a greater effort on the part of regional councils and territorial authorities to establish appropriate structures and processes to achieve common environmental outcomes.

An appreciation of environmental, cultural and socio-economic inter-relationships

The recognition of the link between socio-economic activities, cultural dimensions and environmental outcomes is critical to achieving integrated management.

The RMA defines 'environment' not just in terms of natural and physical resources but also in the context of socio-economic, cultural and other considerations.²⁴ There is a symbiotic relationship between the two and to attempt to separate them could make integrated environmental management difficult to achieve.

The RMA and other legislation determine that regional councils have to focus on resource management. They tend to place most emphasis on the sustainable management of natural and physical components of the environment. Territorial authorities have to take on board a broader perspective, incorporating a focus on the more social and economic development considerations involved in the management of the environment. The tension between the two is necessary and healthy. Unitary authorities have to manage this tension internally with the risk that one dimension will dominate, while regional councils and territorial authorities have to manage it by co-operation, partnership and consultation with the risk that relationships will break down and become litigious.

4.1.2 Managing external relationships

Councils need to develop good relationships and, where appropriate, partnership arrangements with central government, other local government agencies, tangata whenua and stakeholder groups.

Central government

The role played by central government is important for promoting the national integration of environmental management. Regional environmental objectives have to be appropriate and consistent with those developed centrally for the nation as a whole. However, the lack of national policies and standards on a number of issues requiring a common approach among all local authorities is hindering the integration of environmental management at the national level. For example, councils have had to develop their own benchmarks and key indicators, and there is a general feeling that guidance from the Ministry for the Environment on issues like environmental indicators or standards would have been more helpful if they had been produced sooner.

Local government

There is a clear tension between the LGA 1974, which set up regional councils and territorial authorities to be two *complementary* arms of a single level of local government, and the RMA 1991, which set up a *hierarchical* relationship between the two through the policy and plan process. The relationship between the regional council and territorial authorities can largely be determined by the way that this hierarchical relationship is managed on a region-by-region basis. The relationship can be managed in a number of ways, ranging from co-operation and consultation to confrontation and litigation. Regional councils, on the one hand, are responsible for the sustainable management of the resources of a region so sometimes need to adopt

²⁴ RMA 1991, s 2, "Environment".

the ‘policing’ role. On the other hand, a dependence on litigation to achieve ends can lead to dysfunctional local government, where the main losers may be the environment itself and the ratepayers, who, through their rates, are paying for the litigation process.

From our investigations it appears that successful models of local authorities working together to improve environmental management seem to depend to a large extent on the commitment of the individuals who developed the initiative and the encouragement they instil in others to be involved in working towards common goals. A good example is the Auckland Regional Growth Forum, established to develop strategies to address issues of concern to both the region and territorial authorities, and generally to improve relationships between the two arms of local government in the Auckland region. One of the benefits of this co-operative relationship is the potential for improved public confidence and the public’s co-operation and involvement in the management of environmental effects of activities in both the private and public sectors.

Tangata whenua

The commitment to integrated management requires participation of, and consultation with, all relevant stakeholder groups, not just local government bodies. The duties and obligations of the Crown and local government respectively under the Treaty of Waitangi have been discussed in a recent study for Local Government New Zealand.²⁵ Generally, under the RMA councils recognise the importance of including tangata whenua in policy and decision-making processes.

Various approaches to consultation have been adopted by local government, many of which have been outlined in a recent study by the Parliamentary Commissioner for the Environment.²⁶ The Ministry for the Environment’s Annual Survey of Local

²⁵ Local Government New Zealand (LGNZ), 1999. *He Waka Taurua*. LGNZ, Wellington.

²⁶ Parliamentary Commissioner for the Environment (PCE), 1998. *Kaitiakitanga and Local Government: Tangata Whenua Participation in Environmental Management*. PCE, Wellington.

Authorities in 1998, showed that unitary authorities and regional councils made use of iwi consultation methods including:

- holding hui²⁷ with iwi and hapu
- sending draft plans to iwi and hapu
- employing tangata whenua staff or iwi liaison officers
- contracting services from iwi and hapu.

Evidence of these and other methods adopted by councils in this study included a ‘charter of understanding’ between both regional and district councils and tangata whenua, as is the case in Southland, and funding the development of iwi resource management plans.

Stakeholder groups

Integrated management is better facilitated through co-ordination of effort to achieve agreed outcomes rather than through conflict and conflict resolution. This favours a consultative approach wherein all parties realise, understand, and accept the different statutory and discretionary roles each plays in the management of the environment, and need to work together to achieve outcomes.

There is a requirement for consultation on statutory documents, but councils have developed a range of other information, communication and consultation mechanisms. At both the political and officer levels a range of initiatives exist, such as joint committees and formal and informal working groups.

The fair representation and consideration of all relevant communities of interest in the management of the environment

The question of whether or not environmental management should be based on ensuring the integrity of physical features such as catchment areas, or on demographic

²⁷ Gatherings, discussions, meetings, usually on marae.

and cultural communities of interest such as urban centres or tribal boundaries, needs to be more fully explored. The current model of local government tends to favour environmental management areas being defined by geophysical features, while territorial authorities' boundaries are based on communities of interest.

Some areas are easily defined by coterminous geographic and 'community of interest' boundaries (eg Gisborne and Marlborough), but for others (eg Waitaki) the two types of boundaries clash.

However, the apparent anomalies of the model, such as Nelson and Tasman sharing a common catchment area (Roding River) whilst retaining separate unitary authority jurisdictions, suggest that such resources can be managed jointly and still retain the integrity of the catchment area.

Although local communities may often appear to be homogeneous, they are increasingly made up of widely diverse interest groups. These groups may have a general view on some or all environmental issues, or may be interested in only one particular issue in one location. Local government must be aware of this increasing plurality and develop suitable structures and mechanisms to, as far as possible, address all concerns and expectations. Whatever the procedures, councils' overriding concern must be to ensure that environmental 'bottom lines' (minimum standards) are being met and sustainable courses of action are followed.

Future options regarding the effective and efficient delivery of environmental management services may well have to look at separating service delivery from governance²⁸ issues. Options for more co-operative inter-council arrangements for achieving better integrated resource management outcomes need to be explored; for example, adjacent regional councils or territorial authorities establishing a joint resource management department.

²⁸ The process by which organisations are directed, controlled and held to account.

Recommendation

That councils investigate options for inter-council arrangements to achieve effective, efficient, and integrated resource management outcomes.

4.1.3 Strategic management***Having a long-term strategic approach to the management of the environment***

The sustainable management of the environment is a long-term commitment requiring local authorities to have significant strategic planning capability and capacity. A concentration on issues such as operational demands, budgeting processes and the demand for compliance and accountability information, as well as wider issues such as the mechanisms inherent in the democratic process, can divert council resources and attention away from a focus on long-term strategic outcomes.

There is a need to maintain the commitment to achieving sustainable and integrated environmental management by subjecting it to public scrutiny through the publication of long-term strategies and organisational goals. A consequence of the Local Government Amendment Act (No 3) 1996 is an increased focus of attention on the requirement for allocation of, and commitment to, funding of both regional and district environmental management functions in the long term. The commitments in the long-term financial strategies (LTFSs) required by the Act, and the public process involved in developing and reviewing such strategies, help to ensure that district service delivery demands and regional resource management needs are both met. In the case of a unitary authority, for example, this could prevent planned resources being concentrated on district functions to the detriment of regional ones without first going through a public consultation process. Evidence of commitments to both service delivery and long-term environmental management can be seen in each council's LTFS.

Although not always explicitly identified as such, environmental risk management processes are widely undertaken as part of the resource management planning and consent processes. The identification of potential natural and man-made hazards is an important part of the development of a council's strategic policies and plans. The mitigation of environmental risk requires an holistic view of the environmental pressures facing a particular region.

A commitment to taking a leadership role on environmental management issues

Integrated management requires a commitment by local authorities to adopting a leadership role on environmental issues. It takes a strong political and managerial will to create and maintain an organisation that provides leadership as well as functional expertise. Leadership is not necessarily a control function but requires a council to be the advocate, the regulator, and the protector of the environmental resources within its jurisdiction. The requirement to be all three necessitates a pragmatic management philosophy that uses both statutory/regulatory management systems and education/advocacy/communication skills to achieve the council's objectives.

The leadership role also includes the ability of a council to provide a region-wide scientific resource in various aspects of resource management, particularly in respect of its science, environmental monitoring and environmental education capability.

A region-wide perspective of environmental management issues

Unitary authorities, as already noted, do not generally distinguish between regional and district functions (except where required to do so by the RMA) as they are the sole authority for their jurisdiction. Regional councils have to take a cross-jurisdictional view of environmental issues, since they may impinge in different ways on a number of territorial authorities. Territorial authorities for their part have to be aware that environmental effects are not limited by boundaries that reflect community representation.

Under the RMA all plans prepared by territorial authorities “*must not be inconsistent with the regional policy statement*” prepared by a regional council. This hierarchical relationship supports an integrated approach and requires consistency in environmental management within a region. It requires territorial authorities to ensure that they do not make any provisions in district plans that may conflict with the regional policy statement (RPS). In the case of unitary authorities, there is no apparent reason for any of their plans to be inconsistent with their RPSs.

A willingness to use education to achieve environmental outcomes

The aim of environmental education is to influence the community and bring about behavioural change. Our investigations revealed general support for the role and use of education as a key approach to environmental management; there is not, however, widespread and consistent implementation or funding of such an approach.

The success of educational programmes cannot easily be measured; it is a strategic and long-term approach that requires a long-term commitment on the part of councils. This approach recognises that information, education and advocacy, together with support from the community, are as likely to achieve the desired results as rules and regulations. However, it is not always easy to justify spending ratepayers’ money on programmes, the successes of which are difficult to evaluate in the short-term.

4.2 Environmental outcomes

The purpose of the RMA is to promote the sustainable management of natural and physical resources.

The effective use of environmental outcomes as the focus of measuring progress towards the sustainable management of resources requires an organisation to have:

- a strategic focus on, and commitment to, environmental outcome articulation, specification and implementation

- a commitment to monitoring the environment and an organisational capacity to undertake such monitoring effectively
- an organisational structure and capability designed to understand, monitor, analyse and report on progress towards achieving environmental outcomes.

4.2.1 Strategic focus on outcomes

Having clearly stated and measurable environmental outcomes

Effective environmental management requires the setting of clearly stated and measurable outcomes against which progress towards sustainable management of the environment can be measured.

Articulation of outcomes is perhaps the easiest step. Linking them to benchmarks and making them measurable is more difficult. Environmental outcomes are generally contained within a number of statutory and other documents, such as the regional policy statement, regional plans, and state of the environment reports. Some councils were more advanced than others in producing state of the environment reports and being able to show trends in environmental quality as a result of councils' implementation of the RMA.

Until now councils have concentrated their resources on producing statutory documents and, consequently, on articulating environmental outcomes. This 'mechanical' but crucial stage in the statutory environmental management process is now reaching a conclusion in most cases.

It is difficult at this time to assess whether councils are achieving all their environmental outcomes because they do not yet have sufficient information for such a judgement to be made. Many environmental trends will not emerge for years. In some cases benchmarks against which future progress can be measured have not yet been set.

Robust benchmarks have to be based on current and historical data, and on international standards before monitoring environmental trends becomes an accurate measurement of progress towards outcomes.

A focus on the achievement of outcomes as a measure of environmental management performance

A focus on *outputs* has been, in part, a result of the RMA's process requirements. The RMA splits environmental responsibilities into regional and district functions. Organisational design in many cases has so far been aligned to fulfilling these functional responsibilities, and the focus on the production of policy statements and plans has meant that councils' performance has so far been measured in terms of outputs rather than outcomes.

There is a link between outputs and outcomes. Outputs are the physical means through which outcomes can be achieved. A focus on outputs, caused by the need to fulfil statutory obligations such as the production of regional policy statements, coastal plans, and district plans, is a time-consuming and costly process. As this first stage draws to a close any resources not committed to preparing 'second generation' plans need to be directed to monitoring, evaluating and reviewing the effect these statutory policies and plans are having on achieving progress towards environmental outcomes.

Outputs are generally useful as short-term, measurable activities that allow political and managerial performance to be assessed over the course of the financial year and the electoral cycle.

Outcomes are, however, beginning to be recognised as performance indicators, and are being incorporated into annual plans and reports and strategic plans, with long-term outcomes being broken down into more measurable interim outcomes. Some councils are already realigning their committee and staff structures to be more outcome-focused.

Outcome-focused priority setting

The needs and issues within each particular region result in different environmental pressures. However, a common strategy should be to give priority and resources to

those actions and activities consistent with achieving the overall environmental outcomes.

Outcomes are achieved incrementally and sometimes iteratively. Prioritising outputs to align with outcomes should therefore be an ongoing process and an integral part of the strategic planning process. Outcomes can be defined as *measures that indicate progress, or lack thereof, in achieving public objectives.*²⁹ The public objective in the case of resource management is the promotion of the sustainable management of natural and physical resources, and outcomes are a way of directing the outputs in the general direction of this objective. Outputs should therefore always be causally linked to outcomes, even if they may have to change in the short-term to accommodate differing circumstances.

A caveat to this is that there will always be circumstances beyond the control of resource management organisations that will have a direct effect on the progress towards the achievement of environmental outcomes. Some examples are changing immigration, health, or economic policies, and international economic cycles that can affect the performance of the domestic economy.

4.2.2 A commitment and capacity to monitor

A commitment to monitoring

A monitoring framework generally has to cover the:

- effectiveness of policies and plans
- compliance of resource consent holders with consent conditions
- exercise of delegated or transferred functions and powers
- general state of the environment.

²⁹ Professor Allen Schick, 1996. *The Spirit of Reform: Managing the New Zealand State Sector in a Time of Change*, State Services Commission, Wellington.

Monitoring can be seen as a prerequisite to the articulation, specification, and measurement of outcomes. It produces data that provide information on environmental pressures, allow the identification of trends, and help formulate and fine-tune benchmarks and key indicators by which progress towards environmental outcomes can be assessed. Accurate and reliable environmental information is an essential means of providing councils with a firm base for resource management decision-making.

Monitoring should be an initial step in the preparation of regional and district plans, though some might argue that a lack of information on the state of the environment should not be a reason to delay the development of plans. However, there is now an increasing recognition of the need for environmental monitoring to be carried out to assess whether environmental outcomes sought are being achieved. A feedback loop, therefore, needs to be established that would make second-generation policy and plans more effective.

Councils recognise that many of the desired environmental outcomes are such that the trends towards the outcomes will not be accurately known in the short and medium term. A major challenge is balancing the need for a long-term strategic approach with the requirement to be accountable for actions, expenditure and decisions on a regular basis. A pragmatic and effective response has been to develop short- and mid-term outcomes by which progress towards the achievement of long-term objectives can be measured.

The requisite skills to maintain, monitor, assess and review effectiveness in achieving the desired environmental outcomes

Environmental monitoring, interpretation of data and analysis of trends are essential to the development and review of regional policies, plans, rules, standards, monitoring programmes and state of the environment reporting. Environmental monitoring information is also important in the assessment of resource consent applications and for monitoring compliance with consents.

Job specifications for equivalent positions in the policy, planning, monitoring, compliance and review functions are similar between councils, indicating that there is a preferred skill set.

4.2.3 Organisational structure and capability

Access to scientific capability with which to understand, monitor, analyse and report on the sustainable management of natural and physical resources, and the state of the environment in a region

A significant scientific capability is required by both unitary authorities and regional councils to recognise, define and measure key environmental indicators by which the state of the environment can be more fully understood. This capability is particularly important in carrying out 'regional' environmental management functions and, subject to s 247D of the Local Government Act 1974, can either be retained in-house or contracted out.

However, there needs to be retained in-house a core of skilled scientific staff who have the capability to understand, interpret, and apply research that has been purchased. They also need a level of knowledge to identify the areas in which they have insufficient scientific or technical expertise.

The use of outside scientific or other expertise can have considerable advantages over retaining an in-house capability; for example, in accessing specific knowledge only occasionally required by an organisation. However, a reliance on contracting out has the potential drawback of downgrading institutional memory and experience within the council.

Furthermore, access to organisations that undertake scientific research is significantly more difficult in the more remote, rural, less-populated regions. In the metropolitan areas and their surrounding regions this is not generally a problem.

The requisite skills to develop and maintain clear environmental management policies and plans

The quality of resource management policies and plans is crucial. They establish a resource management framework that applies to all resource users, including councils themselves, and minimises the potential for conflicts of interest within councils. Councils should also take into account the environmental management planning documents of iwi in developing and revising their own policies and plans.

The primary determinants of the skills and expertise needed on councils' staff have been the nature and extent of the environmental issues they have to manage and the outcomes they have set themselves to achieve. Some councils have employed a mix of general and highly specialised scientific expertise, while others favour the generalist approach supported by external specialist consultants to assist on particular issues. However, some notable characteristics of the unitary authorities and regional councils involved in our investigation were the high level of qualifications, and the experience and commitment of staff, that could all be brought to bear in the development and maintenance of environmental management policies and plans.

There is sometimes a need for expertise not available in-house. The use of contracted specialists will depend on the issues, and their frequency, facing each council. Wherever possible, experts with knowledge of the local environment are preferred, as this can be critical for some issues.

Sufficient critical mass to generate economies of scale in resource utilisation

There is arguably an uneven distribution of resources amongst councils in New Zealand; there is also an uneven distribution of environmental issues. The size of a council is related to its population base; the number, scale and significance of environmental issues is not. It is important that a council's resource base be sufficient to fulfil its statutory and non-statutory functions with regard to environmental management.

The economies of scale generated by the larger, better-resourced councils, and by councils pooling their resources, are important components in maintaining the ability of less well-resourced councils to operate effective resource management systems.

For example, the development of certain specialised scientific research is taking place within the larger, well-resourced regional councils. They have become centres of public good science, which is not being undertaken by other agencies. Further examples are the establishment of an inter-council database to pool information about resource consent conditions with the aim of achieving greater consistency throughout the country.

Some specialist skills may exist within local government only on a nationwide basis. It would be beneficial for local government to collectively identify sources of such skills or experience, for which some local authorities may have only a temporary need, and to develop a system for sharing such skills.

Recommendation

That local government collectively identifies specialist skills which may exist only on a nationwide basis, and develops a system for accessing such skills.

Appropriate internal management structures designed to deliver and achieve environmental outcomes

Individual councils should adopt what they believe to be the most appropriate internal management structure to deliver and achieve their environmental outcomes. The details of the structures will clearly differ but a focus on the desired environmental outcomes, as opposed to activities or outputs, should be a consistent factor.

Restructuring within local government initially focused on the separation of purchaser and provider, and on the clarification of the operational/regulatory split, resulting in the contracting out of some service delivery and regulatory functions.

The movement away from a focus on outputs towards a focus on outcomes, and the most efficient way of achieving them, has led to the need for councils to strategically realign their internal management structures. In some cases this has resulted in the establishment of new divisions and the disestablishment or amalgamation of others.

4.3 Separation of functions

The Local Government Act 1974 (s 223C(1)) requires that, ‘so far as is practicable’, councils must ensure that their regulatory functions are separated from their other functions. This obligation applies equally to unitary authorities, regional councils and territorial authorities, all of which have both regulatory and service delivery functions.

Councils have a range of regulatory and non-regulatory mechanisms that can be applied to environmental management. The LGA’s requirement seeks to avoid conflicts of interest and encourage transparency where a council is both the regulator and the regulated.

Clearly defined statutory responsibilities

Generally the RMA functions of a regional council can be distinguished from those of a territorial authority in terms of ‘sphere of control’ or jurisdiction. A regional council’s broad responsibilities for the integrated management of natural and physical resources cover the region. For example, a regional council’s management of the “effects of the use, development, or protection of land” (s 30(1)(b)) is differentiated from a similar function of territorial authorities by the fact that it relates to issues of “regional significance”. There are overlaps, however, in that both s 30 (regional council functions) and s 31 (territorial authority functions) refer to functions relating to natural hazards and hazardous substances (see Figure 2).

A commitment to giving appropriate effect to statutory requirements

Councils need to be committed to fulfilling their statutory requirements to prepare regional policy statements, regional coastal plans and district plans. They also need a commitment to other statutory instruments, such as processing resource consent applications within stated timeframes.

However, a commitment *to giving appropriate effect* is more than simply complying with statutory requirements; it is ensuring that policies and plans are not ends in themselves but are means of achieving the ultimate objective of a sustainable environmental management outcome. It is a focus on the link between outputs and outcomes, not just a determination to produce the outputs.

The clear separation of regulatory from service delivery functions

Councils have adopted a variety of approaches to achieve this requirement. Although the manner and extent to which this occurs varies, in all of the cases examined by the study team, asset management and service delivery functions are in separate departments from regulatory functions. This separation at the staff level is generally mirrored at the political level with separate regulatory and operational committees.

In the case of internal consent applications, councils generally appoint independent commissioners to make decisions on such applications based on evidence from the councils' asset managers, comments from regulatory staff, and objections from any submitters.

The more operational activities a council undertakes, the greater the need to separate functions. Within regional councils the separation of regulatory from other functions is not regarded internally as a major issue in terms of conflicting interests. This may be partly due to the nature of the service delivery functions they undertake, which are generally risk-reduction activities such as flood protection or pest management. The provision of such services in themselves has a relatively minor adverse effect on the environment, though it is critical that such risks are addressed.

Transparent decision-making processes

Transparency in decision-making is an important feature of organisations which, as environmental regulators, will sometimes have to restrict the freedom of other bodies or individuals to pursue activities they would otherwise undertake. The need for this transparency is especially true of councils that are also sometimes regulating their own activities.

The ability to resolve conflict internally, but transparently, is critical in an organisation that has to deliberately create a ‘tension’ between its departments. In the unitary authority model issues simply have to be resolved internally and within a reasonable timeframe.

Councils have undertaken initiatives like the public notification of applications and the use of independent commissioners for hearings to ensure that structures and decision-making processes are transparent enough to provide public confidence in decisions.

The co-ordinated management of operational and service delivery activities in order to complement environmental management functions

If there is an effective separation of functions and a transparent decision-making process, then the magnitude or scale of the operational activities should not impact on the environmental activities of a council. In fact where councils have responsibilities for operational activities – regional transport, rivers management, regional parks or pest control – this presents them with an additional opportunity to manage these activities in a complementary way so as to contribute to the achievement of their environmental outcomes. This opportunity is greater in unitary authorities, which have responsibility for ‘district’ operational activities such as water, wastewater and solid waste.

This requires an interdisciplinary approach to all operational activities, and an understanding of the interdependencies that exist across a council's plans, policies and intended outcomes.

4.4 Interaction with the public

Councils have to reconcile being responsive to the needs of ratepayers who finance their activities, with fulfilling their statutory requirement to promote the sustainable management of natural and physical resources. To facilitate this a council needs to ensure that:

- it provides a user-friendly service to the public regarding consent processing and the provision of environmental information
- it is responsive to public and tangata whenua concerns about environmental issues
- the public understands the council's role with regard to the environment
- the public has confidence in the council's ability to perform its environmental management functions effectively and efficiently.

Easy access to services and information

Many different ways of providing easy access to services and information have been adopted by councils. The establishment of internet web sites by some councils has increased the accessibility of council information, and allows for the off-site servicing of some enquiries.

Geographic information systems (GIS) are able to combine information from land information memoranda (LIMs), project information memoranda (PIMs) and building consents that relate to resource consent applications, as well as other resource management information, such as flood hazards.

A variety of methods exist to facilitate the processing of consents. These include setting up a task group to advise applicants on (and to process) multiple consent applications for a single activity, and identifying a ‘principal author’ who is the primary contact person for the applicant.

A strong focus on ‘customer’ service in relation to the processing and co-ordination of consents is important. This might mean the ‘one-stop shop’ approach that unitary authorities emphasise, or the use of joint hearings between regional councils and territorial authorities.

It should be noted that tangata whenua often have strong concerns about consent processes followed by councils (whether unitary, regional or territorial authority) and the mechanisms or opportunities for iwi and hapu to become involved.³⁰

High level of responsiveness to public concerns

Responsiveness entails having due regard not only to clear evidence of adverse effects on the environment, but also to what the public and tangata whenua perceive to be the important environmental issues facing the region. Specialisation within councils may lead them to focus on addressing biophysical aspects of environmental management, such as the sustainability of aquatic ecosystems. However, the general public may be more concerned with issues such as the effects on their health or their properties of contaminated land or agrichemical spraydrift. Tangata whenua may have concerns about effects of discharges on mahinga kai (traditional food-gathering areas).

A good example of responsiveness is Marlborough District Council’s state of the environment report. The report focuses on the top 10 environmental issues as decided by the people in the Marlborough region.

Public awareness of the council’s role

³⁰ Parliamentary Commissioner for the Environment (PCE), 1998. *Kaitiakitanga and Local Government: Tangata Whenua Participation in Environmental Management*. PCE, Wellington

Surveys carried out on behalf of the local authorities reviewed indicate that the public generally has little understanding of the environmental management roles undertaken by their local council(s) or the significance of any division of responsibilities between regional councils and territorial authorities. This lack of understanding is a risk to the future of the dual regional council / territorial authority model, particularly in regions where the unitary model is likely to be advocated as a 'cheaper' option for ratepayers.

Regional councils are often perceived to be 'more remote' from the general public than territorial authorities, and public awareness and understanding of the different nature of their roles is often poor. Initiatives are needed to improve communication and representation across the diverse communities and environmental stakeholders in the regions. Raising awareness of the role of councils who perform environmental management duties also raises the profile of the environment itself. Several regional councils have already undertaken programmes, including 'rebranding', in an effort to emphasise their role and to differentiate themselves from territorial authorities.

Public and resource-users' confidence in the delivery of services and outcomes, and trust in the decision-making process

All councils need public, tangata whenua and resource-user confidence in the activities they undertake and the decisions they make. The confidence of these groups or individuals is built upon factors such as having an 'even-handed' approach to the application of rules and regulations, and having a well-researched, well-informed and transparent decision-making process.

It is widely recognised within the authorities investigated that public and tangata whenua consultation is a valuable and necessary process in determining community expectations and priorities, and in raising trust and confidence in the ability of councils to make the 'right' decision. Public consultation can play a crucial role in the achievement of good, lasting environmental outcomes. An informed public, knowledgeable about environmental resource issues, is more likely to understand the importance of sound environmental management systems.

5 General issues

In the course of this study a number of other issues have been identified in relation to the effective delivery of integrated environmental management systems and the achievement of the desired environmental outcomes. These include the following.

5.1 *Boundary issues*

Not all boundaries of existing unitary authorities and regional councils coincide with geographical, catchment and community of interest boundaries. An example is the Roding River catchment area, parts of which are in the Tasman District and others are in Nelson City. In situations like this a co-operative approach between the two authorities contributes to the effective management of that resource. With the right intentions, there are opportunities in such situations to establish a properly constituted joint management system with appropriate terms of reference, guidelines, memorandum of understanding and dispute resolution processes that could provide an effective system for managing shared natural or physical resources.

In the absence of a joint management system there is the potential to jeopardise the ‘integrity’ of a catchment area and/or to inadequately address the community’s interests in the sustainable management of resources.

Recommendation

That where there are actual or potential boundary issues affecting environmental outcomes, councils establish joint formal arrangements for managing shared natural or physical resources.

5.2 Delivery of environmental management services

The study has highlighted concerns among some of the local authorities visited about future capabilities of local government in aspects of resource management. For example, in specialist areas of work like rivers control engineering, there is a potential future shortage of appropriately trained people, both inside and outside local government. There is a strong case for local government investing in an analysis of its human resource needs to meet its current and emerging environmental management responsibilities. This is particularly important in relation to the delivery of ‘public good’ activities currently undertaken, such as flood protection works, and others likely to become more significant, such as contract management, requiring an appropriate standard of in-house capability.

Recommendation

That local government collectively undertakes a detailed analysis of its human resource needs to ascertain its capability to undertake current and emerging environmental management responsibilities and, if necessary, invest in appropriate training programmes to meet potential shortfalls.

5.3 Central government issues

With a few exceptions, the councils visited have generally been critical of the lack of helpful guidance from central government on environmental management issues. The general view was that any central government support that has been given has been too little too late. One example is the development of environmental performance indicators, which should have been available early in the RMA reforms to enable councils to adopt a consistent approach to monitoring and reporting on the state of the environment and their outcomes. Councils were strongly of the view that while

partnerships between local government agencies are important to achieving outcomes, so too is the environmental management partnership between central and local government.

Recommendation

That the Minister for the Environment gives priority to the provision of national guidance to local authorities on the setting and evaluation of environmental outcomes.

Current RMA amendment proposals would redefine or clarify the functions of regional councils and territorial authorities on the basis of reallocating the responsibilities for water and land components of the environment. This appears to be contrary to the fundamental 'integrated management' approach of the RMA, although in the case of unitary authorities it is unlikely to make any difference.

In the future there is potential for increased pressure on local government's environmental management responsibilities. This may include demands for greater efficiencies in service delivery, improvements in environmental quality, increased devolution of responsibilities from central government, increased demands for information on the state of the environment, demands to reduce or constrain the rates take, and the impacts of reform proposals currently under consideration, such as roading and water.

This study has found that, in terms of environmental management, the focus should be on effectiveness and efficiency in achieving environmental outcomes, and that any structural changes that need to be made should be on the basis of that objective.

Recommendation

That any future proposals to restructure local government should emphasise the need for effectiveness and efficiency in achieving environmental outcomes.

5.4 Funding issues

There is an uneven distribution of resources among councils. For example, some have access to dividends from port company shares, whilst others are dependent entirely on rating income from fluctuating and sometimes declining population bases. Local authorities in low or negative growth areas are faced with fulfilling statutory environmental management requirements and providing services in the face of static or diminishing revenue. The risk is that such local authorities will be unable to sustain the level of financial and human resources needed to deliver an adequate level of environmental management, the consequences of which could be unacceptable environmental outcomes.

Consideration must therefore be given to the funding available to any environmental management agency to ensure that it can fulfil its functions and achieve its environmental outcomes.

5.5 Cost and efficiency issues

This study has not attempted to evaluate the actual or potential cost savings or increased efficiencies of the unitary authority model compared to the regional council / territorial authority model of environmental management.

Each of the current four unitary authorities operate on similar levels of income. It is difficult to compare unitary authorities' expenditure on environmental management with that of regional councils because of differences in the range of functions they

each undertake and the issues they have to face. The study found no evidence of any substantial work on comparison of the operating costs and efficiencies (in terms of outcomes being achieved) of the unitary authority model compared to the regional council / territorial authority dual model.

Costs and efficiencies in financial and economic rather than environmental outcomes are issues that are relevant to those debating the concept of the unitary authority model, particularly in respect of the administration of the RMA. However, to accurately quantify and explain any such differences between the two models would require a separate study.

6 Conclusion

The form adopted by local government to deliver outcomes is less relevant than other factors that determine the actual achievement of outcomes. This is the case whether it is a unitary authority with sole responsibility, or a regional council / territorial authority system of shared responsibility or some other model. Any model adopted or adapted to suit a region or district has to be able to respond to the environmental issues and the socio-economic, cultural and biophysical outcomes desired by the communities concerned. Given the diversity of environmental issues and communities in New Zealand, it is important to have sufficient flexibility within local government to deliver these environmental outcomes. Any council needs to operate in a consultative and transparent manner to instil within the community confidence in the council's decision-making ability.

An important determinant of the perceived effectiveness of local government's environmental management, and one which is probably of most significance to the community, is a council's ability to achieve its stated environmental outcomes. The achievement of environmental outcomes is more likely to occur through adopting an integrated approach to environmental management than through confrontation or litigation within or between local government agencies.

We conclude that the unitary authority model is capable of delivering sound, integrated environmental management provided that other more significant (not model-dependent) factors are addressed. There are benefits and risks associated with both the unitary and the regional council / territorial authority models and there is no evidence to suggest that one model or the other would work better, in terms of delivering environmental outcomes, in all regions of New Zealand.

There will of course be differences throughout the country in the levels of performance of individual councils, depending on the range and scale of issues they have to manage as well as their individual capabilities, systems and resources to undertake their resource management responsibilities.

When assessing local government's environmental management performance and effectiveness, more focus needs to be placed on monitoring and reporting on progress towards achieving environmental outcomes.

Appendix 1: Outline of the roles of the Parliamentary Commissioner for the Environment and the Auditor-General

The Parliamentary Commissioner for the Environment and the Auditor-General are both independent of the Executive Branch of Government and report directly to Parliament through the Speaker of the House. Their primary function is generally to assist Parliament in the discharges of functions which the House of Representatives itself might appropriately undertake. This includes investigations of public sector organisations.

The functions of the Parliamentary Commissioner for the Environment are outlined in the Environment Act 1986 and include investigating the effectiveness of environmental planning and environmental management carried out by public authorities (including Ministers of the Crown, Government departments and local authorities), and reporting the results of any such investigation to Parliament.

The Auditor-General's role includes assisting Parliament to strengthen the effectiveness, efficiency and accountability of the instruments of government. This role is discharged by providing reports on whether public sector organisations operate, and account for their performance, in a manner consistent with Parliament's intentions.

Appendix 2: Outline, terms of reference and assessment criteria for this study

1 Purpose

The purpose of this joint investigation is to undertake an assessment of the unitary authority³¹ (UA) model in relation to the discharge of environmental management functions and responsibilities of local government, and to report the results to Parliament during the 1998-99 financial year.

2 Background

There are currently four unitary authorities in New Zealand – Gisborne District Council, Marlborough District Council, Nelson City Council and Tasman District Council.

A unitary authority combines both territorial authority and regional council functions within a single agency. As such, a UA needs to incorporate into its environmental management system³² the means to undertake all the responsibilities of local government under the Resource Management Act 1991, Local Government Act 1974, Biosecurity Act 1993 and other relevant legislation. This broad range of functions contrasts with those of the separate regional council / territorial authority split which is the predominant model in New Zealand.

There has been much debate about the current local government structure in New Zealand and whether it enables councils to provide integrated environmental management and deliver the best possible environmental outcomes. Some have argued that the two-tier system of regional councils and territorial authorities is unnecessary and inefficient, while others suggest that combining the two, as in the unitary authority model for example, has the potential to create conflicts of interest between councils' regulatory and service delivery roles (eg the granting of consents by the 'regional' arm to operate the council's 'district' services such as sewage treatment plants and landfill sites).

The Parliamentary Commissioner for the Environment and the Auditor-General considered that a joint independent assessment of the unitary authority model was necessary and would be a useful contribution to the current debate about the strengths and weaknesses of the current structures and systems of local government with respect to their environmental management responsibilities.

³¹ Section 37N of the Local Government Act 1974 makes reference to a unitary authority as a territorial authority exercising the functions duties and powers of both a regional council and a territorial authority.

³² In the context of this investigation, 'environmental management system' includes the structure, processes, capability, resources, policies, plans, objectives and methods of a UA to fulfil its statutory environmental management responsibilities, as well as its non-statutory functions and initiatives such as environmental education and funding of projects to improve the environment.

The study does **not** intend to evaluate the actual performance of individual unitary authorities nor to recommend an appropriate form of local government. The study **will** examine the functionality of the UA **model**, as it is evolving in the four existing unitary authorities, and compare and contrast UA environmental management with that of a selection of other councils representing the regional/territorial split model. The focus will be on unitary authorities' style of environmental management, how this is influenced by them having both regional council and territorial authority functions, and how this (or other factors) affects their delivery of environmental objectives/outcomes.

3 Methodology

The investigation consists of four stages.

- 3.1 **Stage 1:** the preliminary visit to Hawke's Bay Regional Council in July 1998 in connection with the scoping of the study, as well as the preparation of its outline, terms of reference and assessment criteria.
- 3.2 **Stage 2:** between 1 July and 31 December 1998 with the objective of assessing the environmental management system of each of the four existing unitary authorities.
- 3.3 **Stage 3:** between 1 February and 31 March 1999 with the objective of comparing and contrasting the environmental management systems of UAs with that of a selection of other councils.
- 3.4 **Stage 4:** between 1 April 1999 and 31 May 1999 with the objective of completing a final report which combines the analysis, findings and recommendations from stages 2 and 3.
- 3.5 In carrying out the assessment of UAs' environmental management, the following matters will be taken into account:
 - the current structure and statutory functions of local government in New Zealand;
 - the nature, scale and effects of activities and environmental issues in each district/region;
 - the environmental management budget, assets and sources of income of each council;
 - the size of each district/region, and its natural and physical resource-base;
 - trends in the environmental quality, population and economy of each district/region;
 - the services provided by each council and how policy, regulatory and service delivery components are separated;
 - cross-boundary issues and relationships with other local authorities and government agencies (eg DoC);
 - the range of stakeholder interests in each district/region;

- internal and external influences on each council's environmental management system.

4 Terms of reference

- 4.1 To identify the characteristics of each UA and ascertain the circumstances under which each authority was established.
- 4.2 To ascertain the range of approaches adopted by UAs in carrying out their environmental management functions and responsibilities.
- 4.3 To assess the environmental management systems within UAs and their ability to deliver integrated environmental management for the district/region, and to compare and contrast such systems with those of a selection of other councils.
- 4.4 To identify the advantages and disadvantages of UAs carrying out regional in addition to territorial authority (ie district) environmental management functions.
- 4.5 To assess the extent to which district functions of UAs influence the achievement of regional environmental objectives/outcomes (and vice versa).
- 4.6 To identify any other significant factors that influence the achievement of UAs' environmental objectives/outcomes and assess the extent to which they do so.
- 4.7 To assess UAs' environmental management outputs and their contribution to stated environmental outcomes for the combined region and district. This will include outputs and outcomes required by legislation, or in response to government policy, and include those stated in councils' annual and strategic plans.
- 4.8 To examine the manner in which regulatory environmental management and service delivery functions are separated, the priority given to each, other approaches adopted by councils, and the implications of these for integrated environmental management.
- 4.9 To identify any risks that UAs face in fulfilling their statutory environmental management responsibilities, and how such risks are managed.
- 4.10 To identify any legislative or other impediments to UAs achieving their environmental management objectives/outcomes.

5 Assessment criteria

The study will base its assessment of the UA model on the following criteria:

- 5.1 The council has established a system of policies, plans and methods to achieve integrated management of:

- the natural and physical resources of the region; and
 - the effects of the use, development, or protection of land and associated natural and physical resources of the district (ss 30&31 of the RMA).
- 5.2 The council has established environmental objectives/outcomes which are measurable and are systematically and regularly monitored, reported on, and reviewed.
- 5.3 The council has clearly specified its priorities and allocation of resources to meet its environmental objectives/outcomes.
- 5.4 The council has a structure, processes and appropriate mechanisms (regulatory and non-regulatory) that enable it to meet its statutory obligations and its environmental objectives/outcomes.
- 5.5 The council has established a monitoring and reporting system that enables progress towards meeting its environmental objectives/outcomes to be assessed.
- 5.6 The council has established an environmental management system that effectively separates regulatory from service delivery functions