

# NZCPR Weekly

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NEW ZEALAND CENTRE FOR POLITICAL RESEARCH

## TIME TO HOLD OUR POLITICIANS TO ACCOUNT

Dr Muriel Newman

In 2006, property investor Terrence Stirling applied to the Christchurch City Council for a resource consent for a bulk retail centre on a two-hectare site some 50 metres from the central business district. The site, which was used mainly for car sales, was in an industrial zone where any retail development needed Council permission. The proposed complex was to have two large-format stores selling items such as furniture, carpets, or appliances, along with five smaller shops. He thought it would be a straightforward matter. It wasn't.

Unfortunately for Mr Stirling, his application was considered by Council staff to be in conflict with their City Plan, which had a 'centres-based' approach to retail distribution ostensibly to protect the City's 'identity', but in reality to keep suburban competition away from central city retailers.

So when council bureaucrats turned down his application because it didn't conform to their 'master plan', he appealed - first to the Environment Court and then to the High Court. In a ruling issued last month, the High Court rejected his appeal essentially because his shopping complex would be too close to the CBD and would create unnecessary competition for central city retailers.[1]

But hang on a minute what's the RMA got to do with market place competition and in any case haven't these people caught up with the fact that following the earthquakes there are now no central city retailers to protect from competition?

While the original resource consent application was submitted long before the earthquakes, the Environment Court decision was released almost three months after the first earthquake, so they could have taken the changing situation into account. With the High Court appeal having just been held, to pretend that nothing has changed in Christchurch since the original application was lodged, is ludicrous. This injudiciousness epitomises the lack of common sense which now plagues local government.

Mr Stirling says that in spite of losing the High Court battle and amassing costs of \$100,000, he is not

giving up his struggle. While most people's plans are not so ambitious, nor costly, individuals and businesses can nevertheless spend months if not years of time and money battling council processes. Mindless local government bureaucracy has become a major factor in holding the country back and stopping it from recovering from the recession.

Just last month the MYOB Business Monitor revealed that a survey of over 1000 businesses from around the country found satisfaction levels with local government had fallen 8 percent since April.[2] Overall, 42 percent of Kiwi business owners are unhappy with the support they receive from their council. Dissatisfaction is highest in the Waikato and Taranaki regions, where 48 percent of businesses said they were unhappy with their council's performance. This was followed by Northland on 47 percent, Hawke's Bay on 45 percent, Auckland on 43 percent, Bay of Plenty on 40 percent, Otago and Southland and Christchurch on 38 percent, Wellington on 27 percent, and Manawatu-Wanganui on 20 percent.

When it comes to how satisfied business owners are with their councils, Wellington leads the way with 21 percent of businesses saying they were satisfied with their council's performance, while the worst ranked are the Bay of Plenty and the Hawke's Bay on 6 percent.

The point is that local councils know that a thriving business sector is fundamental to their success. When businesses do well, employment opportunities are created, private investment flows, and communities flourish.

That's why council delays, unwarranted regulation, unnecessary bureaucracy, and excessive compliance costs are frequent sources of frustration for businesses and other ratepayers. And that is also why the role of local authorities needs to be reviewed and reformed so they are more responsive to local needs.

Without a doubt the seeds of the derailing of local authorities were sown in 2002 with the passing of the Labour Government's amendments to the Local Government Act. This law change not only

introduced the power of general competence giving councils the right to embark on any projects that take their fancy - but it also deflected them from their core purpose of providing local public goods and services that can't be adequately provided by the private sector, and administering local regulatory processes. Instead local authorities were asked to promote the social, economic, environmental and cultural well-being of their communities - which was another invitation to run rampant with ratepayers' money.

Local government is now a significant part of our economy. Employing over 25,000 staff, as at 30 June 2010, the sector had assets worth \$103 billion. Of their \$6.8 billion operating revenue, over \$4 billion was collected from property owners around the country in rates. Their operating expenditure was \$7.1 billion, leaving an operating deficit of \$300 million.

But as local government has grown in value, so its assets are being regarded as rich pickings by tribal groups seeking Treaty of Waitangi settlements. In a speech to the Local Government Association Conference in July, the Minister of Local Government, Rodney Hide, explained the problem: "The Government naturally and rightly wants to settle historical Treaty grievances. In these cash-strapped times it's getting harder. And the claims are getting tougher."

He then went on to outline how this development risks undermining the fundamental principles of democracy in New Zealand: "So now local governance is up for grabs as part of the settlement process. Treaty negotiators have been discussing co-governance and seats at the council table in lieu of cash and property. Their purpose is not good local government but treaty settlements".

Earlier this year there was a huge scandal when the public became aware that while dedicated Maori seats had been ruled out of the new Auckland Council's governance arrangements, a 9-member Maori Statutory Board - with arguably more powers - had been included. This politically appointed Board,

selected by a panel appointed by the Minister of Maori Affairs, will cost ratepayers up to \$3.4 million a year to run. Worse, by having two representatives appointed to over 20 council committees each with full voting rights Board members with no mandate from the public will have equal power to councillors.

This is a travesty of the democratic process not only are government appointees sharing equal voting rights and power with elected representatives, but in some cases they may hold the balance of power. Essentially this could lead to a situation where Maori opinion that comes with no accountability - carries more weight than the opinion of others in Auckland.

In light of the comments made by the Minister that seats at the local council table are now being considered in lieu of cash for Treaty settlement purposes, it may be that in the next term of Parliament similar Statutory Board arrangements may well be an agenda that is pushed in other local authority areas around the country.

Such 'capture' of local government is something that ratepayers need to be extremely vigilant against - and not only with regard to Maori interests. While recent reforms will have gone some way towards helping to streamline consent processes, they were not bold enough to turn around the increasing complexity of local government - which has been well and truly hijacked by a planning madness that shows little sign of abating.

Owen McShane, the Director of the Centre for Resource Management Studies and this week's NZCPR Guest Commentator, has long campaigned against the capture of local government by planners with a regulatory zeal.

"Make no mistake, regulations are a key ingredient in the DURT that seizes up the wheels of the urban economy where DURT stands for Delay, Uncertainty, Regulation and Taxes (including fees and charges). While many people are aware of the need to reform the RMA itself, the real causes of most of the DURT go largely unnoticed. The biggest problem of all is the plethora of planning documents, and their size and complexity. They impose massive costs on every activity of Local Government and on those who have to find their way through and around them.

"One of the main benefits of the RMA, when

first introduced in 1991 was that it replaced a number of Acts and regulations with a 'One stop shop'. While the Act was thick it meant that if an applicant dealt with this one piece of legislation and followed a single process, they would end up with a positive or negative decision. This was a major step forward. However, the same Act carried its own seeds of destruction.” To read Owen's article go to [www.nzcpr.com](http://www.nzcpr.com).

The reality is that once professional planners and environmentalists got a toe-hold in local government, we were doomed. Simple council plans have been turned into documents of such complexity that no-one can fully comprehend what is really going on. What this means is that rule changes, that can have an enormous impact on locals, can be slipped through without anyone (including councilors) really understanding the danger.

There have been cases of councils changing designations on land around the fringes of their districts so the minimum area that can be subdivided is 20 hectares - effectively shutting out those without the means or inclination to buy such large blocks. Ratepayers can suddenly find that they can no longer prune their trees, or change the colour of their house, because their ability to undertake discretionary activities on their own property has been superseded by their

council's new master-plan.

With the election just around the corner, it is time to hold the politicians to account. They need to outline their plans for fixing some of these glaring problems that exist in local government. If they are serious about making a real difference, among their remedies should be removing the power of general competence and the need to promote the four wellbeings from councils in order to return the focus of local government back to the provision of core services and the facilitation of consent processes. They need a commitment to keeping local government colour blind with one law for all by rejecting calls for Maori seats and for local resources for Treaty settlement purposes. And they should be committed to giving ratepayers a greater ability to influence the decision-making process by introducing a direct democracy system of referenda on important matters that affect their communities.

But in addition, politicians need to be asked how they intend to halt the bureaucratic madness and return local plans to being simple documents that everyone (even they!) can understand.

#### FOOTNOTES

1. Courts of NZ, Stirling v Christchurch City Council  
<http://www.courtsfnz.govt.nz/cases/stirling-v-christchurch-city-council?searchterm=stirling>
2. MYOB, Still nothing super about councils for business  
<http://myob.co.nz/myob/news-1257828256743?articleId=1257829380466&year=2011>

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