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| Regional council functions in a Wairarapa unitary authority |
| Information for the Local Government Commission |
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January 2014

**MPC & HEADWAY**

Regional council functions In a Wairarapa unitary authority

1.0 Purpose

*The purpose of this report is to provide additional information about the environmental management activities of regional councils to the Local Government Commission to assist them in their deliberations about options for a unitary authority in the Wairarapa*

# 2.0 Introduction and context

The Local Government Commission is currently considering options for local government reform in the Wellington and Wairarapa region (initiated by both the Greater Wellington Regional Council and by the three Wairarapa District Councils.). The information is in support of the Commission’s consideration that any Wairarapa unitary authority (WUA) would have to have “the resources necessary to enable it to carry out effectively its responsibilities, duties and powers”.

Doing a desktop analysis of the information and studies done previously we have provided information about:

* The scope of environmental management activities that any unitary authority will need to undertake and the degree to which they are mandatory or discretionary:
* How the level of resource (people capability and fiscal) investment might potentially impact on environmental management activities;
* Commentary on the potential environmental impacts/risks associated with a reduction in funding of these activities;
* The known current and future drivers that might impact upon a unitary authority’s environmental management activities;
* Commentary on the environmental management framework used by Marlborough District Council and compared with the proposed Wairarapa model. This is used to support ideas put forward;
* Commentary about regional environmental management activities and “good practice” for illustration and comparison purposes.

## 2.1 Summary

Doing the research for this report has highlighted to us the lack of any substantive qualitative or quantitative comparisons of and between the performance of regional and unitary authorities.

Drawing upon the comparative analysis reports prepared in support of the proposals (Morrison Low 2012, MartinJenkins 2013, PwC 2013 & BERL 2013) and our experience and understanding of the environmental management functions that will be required of a unitary authority our observations, the questions we posed are:

**1. What is the particular scope of environmental management activities that any unitary authority will need to undertake and the degree to which they are mandatory of discretionary?**

a. We have provided a breakdown of the environmental services that will be required by any unitary authority, including a short description of the activity (in table 1), its mandatory or discretionary nature and the legislative basis of the activity (in table 2).

b. It should be noted that the consideration of the level of quality and quantity of delivery of discretionary activities is not always clear cut. Many of the discretionary activities might be necessary to underpin or support mandatory environmental activities, such as funding of heating and insulation improvement programmes in order to support air quality and health outcomes. In addition, the needs of the local community for protection of animals against TB, or flood protection for productive land or people’s homes, may drive the need for a higher number of these non-mandatory activities.

**2. How would the level of resource (people capability and fiscal) investment proposed in the Wairarapa proposal potentially impact on environmental management activities? and;**

**What are the potential environmental impacts/risks associated with a reduction in funding of these activities in general terms?**

a. In all cases the reduction of resources allocated for environmental activities has the potential to reduce the effectiveness of those activities and result in poor environment outcomes (particularly in the mid to long term). This will vary with the kind of pressures, current (environmental) state and required response for that issue (e.g water management) in that region given the local needs and the kinds of settlement and land uses.

One size – in this context – does not fit all. Factors such as historical investment patterns, future demands, community expectations and the need to attract and retain skilled staff will all influence the necessary the investment that any future Wairarapa Unitary Council will need to put in place to achieve the required environmental outcomes (OAG & PCE 1999, TBD Advisory 2013).

b. We accept that a unitary model can deliver the environmental management functions required and we have used “key features” of an effective environmental management system identified by the 1999 PCE and OAG report (see references at the end of the report) to help illustrate and assess aspects of each proposal. In table 3 we have set out each environmental management activity and the associated risks of any reduced service levels.

c. The diversity of regional/unitary approaches across the country and the very limited comparative analysis between the current operations means it is difficult to draw firm conclusions about the relative need and delivery of environmental services in Wairarapa.

It is clear from the reports provided that the environmental services annual funding under the WUA option would be reduced by about $1 million relative to GWRC expenditure (BERL, 2013). We consider that the proposed reduction in funding (compounded over time) in conjunction with the known increase in demands for more environmental management services will, all else equal, result in a greater risk of poorer environmental outcomes across the region. The analysis in this respect is neutral as to whether the service is delivered under contract by another provider or by a potential WUA.

**3. What are the known current (and future) drivers that might impact upon these environmental activities?**

a. There are clear emerging environmental management issues and demands that any future local government structure working at the regional level will have to manage. These include:

* The need to focus on regional planning and development for infrastructure and coordinated regional economic development e.g. regional spatial plans;
* The need for better environmental outcomes and more sophisticated environmental management over issues such as water quality and allocation – this is being driven by a combination of legislation, changing market requirements and higher expectations as to health and environmental quality e.g. National Policy Statement for Freshwater Management (MfE, 2011);
* The need for additional environmental co-management responsibilities arising from treaty settlements with Maori.

These factors and other trends associated with regional environmental management (the need for more sophisticated science – for example, the need to deal with the potential impacts of climate change etc.) all point towards more demand for resources to deliver environmental management in the foreseeable future rather than less.

**4. What are the environmental management similarities and differences between Marlborough and the Wairarapa ?**

a. Many aspects of the comparison of the environmental management similarities between MDC and a WUA appear to be a sound basis for comparative analysis; e.g. the type of activities that need to be undertaken – size of population.

We do consider that the lack of detail on finances and the number of staff (and their roles), which makes it difficult to draw more detailed conclusions. In addition there is no information available to determine that the current level of investment in environmental services by MDC is optimal for the current state of the environment in that region and for achieving the environmental outcomes required (see BERL 2013).

**5. What information is available to the LGC about “best practice” regional environmental management activities for illustration and comparison purposes?**

a. The work we have done for this report so far has highlighted to us the lack of recent qualitative or quantitative comparisons across regional and unitary authorities, with the limited exception of MfE's biannual consent timeframe survey and the OAG's 2011 review of freshwater management (which reviewed the performance of four regional councils - Waikato, Taranaki, Horizons and Southland).

A more comprehensive review will be a significant and complex undertaking, not least because all regional and unitary authorities have adopted different approaches to environmental management issues including the way they carry out mandatory functions such as:

* Statutory RMA plans – (including variable combinations of or focus on: air; land; water; land and water; discharges; soils/sediment/earthworks; catchment-specific plans)
* Environmental services structures (including work-stream subdivisions between land management, biodiversity, pest management, water management, flood/drainage management and environmental investigations/science).
* Environmental reporting and reviews of policy effectiveness

While regions are physically diverse and bio-physically unique, the diversity of environmental management appears to be driven more by organisational history and culture than science or the structural model that is in place (LAWF 2012 & 2012a, TBD Advisory, 2013).

We have in Table 4 provided examples where we consider that these activities are (in our opinion) being done well. This might aid the commission to address what “good looks like” but not directly compare activities or the performance of the organisations.

We are aware that the regional sector (including unitary authorities) is organised in such a way to enable matters of best practice and consistency to be explored and developed to some extent across a network of special interest groups. Larger, more resourced, organisations frequently taking the lead and underpin this work to support others.

# 3. Mandatory and discretionary regional activities

The mandatory functions of regional councils that would need to be undertaken by any unitary authority are set out in national legislation and national policy instruments. Foremost amongst the legislative drivers is the Resource Management Act and particularly Section 30(1). Other key legislation that mandates or enables regional council activities are:

* Local Government Act 2002 and amendments
* Hazardous Substances and New Organisms Act 1996
* Soil Conservation and Rivers Control Act 1941
* Biosecurity Act 1993
* Maritime Transport Act 1994
* Land Transport Act 1998
* Civil Defence Emergency Management Act 2002
* Building Act 2004 (dams only)

The legislative drivers of regional environmental activities which are relevant to the assessment are summarised in Table 1 below:

**Table 1: Functions of Regional Councils**

NB: For s30 (1) functions, the clause starts with:

Every regional council shall have the following functions for the purpose of giving effect to this Act in its region:

| **Legal function** | **Basis** | **Comment** |
| --- | --- | --- |
| Integrated management of natural and physical resources | RMA s30(1)(a) | Implemented through a wide range of statutory policy policies/methods and arguably regional leadership and coordination across territorial authorities, including regional and sub-regional strategies. Integrated management is a key element of mandatory Regional Policy Statements (sections 59-62). |
| Policies on land of regional significance | RMA s30(1)(b) | Some Councils have identified wetlands of regional significance and elite soils through schedules to regional plans. The Wellington RPS (Operative 2013) has not identified any “land” of regional significance. |
| Control land use for soil conservation | RMA s30(1)(c)(i) | Soil conservation is a long-standing priority for regional councils and the predecessor organizations, and is subject to major regulatory and implementation efforts. It is also complemented by some discretionary incentive / advisory functions which is also true for several other s30 functions set out below. |
| Control land use to maintain/enhance water quality | RMA s30(1)(c)(ii) | Regional councils will increasingly manage land use to address water quality degradation, particularly in response to the National Policy Statement for Freshwater Management. This is both an increasingly important environmental issue as the economic importance and critical nature of water becomes apparent.  An increased focus on sustainable land management activities within a regional council means a stronger focus on working with landowners, industry and the community as well as taking a leadership role to protect the quality of the region’s land and water resources. Councils will undertake operational activities and provide advice to reduce sedimentation, stock access and runoff to waterways. |
| Control land use to maintain/enhance water quantity | RMA s30(1)(c)(iii) | A more limited role, such as where forestry establishment reduces aquifer recharge |
| Control land use to maintain/enhance aquatic ecosystems | RMA s30(1)(c)(iiia) | A major activity (e.g. controlling sediment runoff and riparian retirement) linked to water quality (s30(1)(c)(ii). |
| Control land use to avoid/mitigate natural hazards | RMA s30(1)(c)(iv) | As with soil conservation, a major and traditional RC activity, including flood plain schemes, planning/zoning, and increasingly earthquake and climate change planning.  Linked to RC river and catchment functions under the Soil Conservation and Rivers Control Act |
| Control land use related to hazardous substances | RMA s30(1)(c)(v) | Linked to RC HSNO functions |
| Investigate contaminated land | RMA s30(1)(ca) | Regional Councils role in identifying contaminated land is a function under s30 (1)(ca) of RMA: the investigation of land for the purposes of identifying and monitoring contaminated land.  The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health gives responsibilities to the TA’s and the Regional Council role is to maintain an up to date register of contaminated sites. See <http://www.mfe.govt.nz/publications/rma/nes-assessing-soil-protect-health/> |
| Manage the coastal marine area (CMA) | RMA s30(1)(d)(i) to (vii); also s30(1)(fb) | This subsection covers a comprehensive set of CMA responsibilities and functions, including occupation of space, extraction of sand/shingle, taking/use of water, discharges, avoidance/mitigation of natural hazards and hazardous substances, noise and activities on the water surface. New subsection (fb) covers CMA energy takes and allocation of CMA space.  Regional Coastal Plans are mandatory. |
| Manage water quantity | RMA s30(1)(e) | Covers water takes, uses, damming, diversions and geothermal takes/management |
| Control discharges of water and contaminants | RMA s30(1)(f) | The wide RMA definition of contaminants reinforces this as a major RC function, with increasing emphasis on diffuse sources of sediment, microbial and nutrient contaminants of surface and ground water. |
| Allocation of water and assimilative capacity | RMA s30(1)(fa) | Water allocation, including water body assimilative capacity - refer again to National Policy Statement for Freshwater Management plus current work on limit-setting process – the National Objectives Framework <http://www.mfe.govt.nz/publications/water/freshwater-reform-2013/html/page6.html> |
| Manage river and lake beds plants | RMA s30(1)(g) | Regional Councils manage river beds for flood risk, including controlling invasive vegetation that my exacerbate flood risk, and encouraging native vegetation that provides improved riparian habitat. |
| Maintain indigenous biodiversity | RMA s30(1)(ga) | A shared responsibility with territorial authorities, linked to national guidance: NZ Biodiversity Strategy (2000); Proposed NPS on Indigenous Biodiversity (2011); and The Biosecurity Strategy for New Zealand (2003). |
| Strategic integration of infrastructure | RMA s30(1)(gb) | This was introduced in 2005 via amendments to the RMA and cements the role of the regional council and the RPS. It is a good illustration of the emerging regional focus on the need for regional coordination infrastructure planning, and economic development through regional spatial plans. |
| Duty to gather information, monitor and keep record | RMA s35 | This is a significant function. S35 applies to both territorial authorities and Regional councils – includes 5-yearly “reporting” obligation (subsection 2A).  Responsibility for monitoring implementation of the RMA primarily rests with the Ministry for the Environment (on behalf of the Minister for the Environment) and local authorities. At present, national information is gathered in a variety of ways, including a two-yearly Survey of Local Authorities, implementation surveys, periodic research, and *ad hoc* data requests.  Other than the two-yearly Survey, there is no national framework to guide how we monitor RMA implementation, including what information should be collected. Councils therefore differ in what, when, where and how they do so, which makes it difficult to capture consistent and comparable information on the implementation of the RMA and how effectively it is achieving its purpose for New Zealanders.  Central government is looking to improve and standardising environmental monitoring will enable a more detailed understanding of how effectively the RMA’s tools and processes are being implemented, and how any amendments and national tools are working. This will require additional capability within Councils. |
| Hazardous Waste | HSNO Act 1996 | Shared responsibility with territorial authorities and a legislative overlap between the HSNO focus on substances and RMA focus on activities, location and effects. Regional councils typically exercise their responsibilities through RPS and regional plan policies and rules that constrain the location and discharge of hazardous substances/waste e.g. by rules preventing hazardous waste being discharged via stormwater drains. |

**Table 2: Mandatory or Discretionary Regional Environmental Functions**

| **Category** | **Activity** | **Mandatory** | **Comment** |
| --- | --- | --- | --- |
| Regional planning | RPS | Yes | All regional councils must have a RPS which is the top tier planning document. All regional and district plans must give effect to the RPS through subordinate plans and it must be taken into account in resource consent decisions. Councils must review RPS efficacy after 5 years with a full review and new RPS development 10 years after the “operative date of the “old” RPS. These reviews are substantial and typically take several years. |
| Regional planning | Regional Coastal Plan | Yes | Coastal plans are the only mandatory regional plan and require councils to work closely with the Department of Conservation. |
| Regional planning | Integrated planning | Yes | The mandatory aspect of “integrated planning” relates to the preparation of Regional Policy Statements which s59 RMA sets out as:  The purpose of a Regional Policy Statement 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.  Beyond this requirement it is arguable that integrated planning is discretionary although all regional councils pursue integrated planning across issues of regional significance, enabled by the high-level RMA s30(1) mandate and the even broader LGA mandate. |
| Regional planning | Regional Plan for Discharges to Land  Regional Air Quality Management Plan  Regional Soil Plan  Regional Freshwater Plan | No | Non-coastal regional plans are discretionary but all regional councils have developed a range of such plans to better manage air, soil/land, water quality and quantity. With the advent of the National Policy Statement for Freshwater Management, a freshwater plan (or combined land and water plan) is arguably mandatory as there is no other method of developing, setting and implementing water quantity/quality limits.  Section 63 RMA describes the purpose of regional plans as being to assist regional councils to carry out their functions to achieve sustainable management.  GWRC has scheduled “early 2014” to release a Draft Regional Plan for public comment. GWRC has prioritized Wairarapa water issues with establishing the collaborative Ruamahanga Whaitua Committee in 2013, anticipating a consequent plan change in 2017, see [link](http://www.gw.govt.nz/assets/Regional-Plan-Newsletter-2013-September.pdf).  These four plans are already in place (via GWRC) and subject to 10 year plan review cycle. GWRC commenced this review in 2009 aiming to integrate all five plans (including Coastal) into a single regional plan.  Some regional and unitary councils are moving to consolidate their RPS and regional plans into one. The Horizons One Plan is a recent example. |
| Regulatory | Resource consent processing | Yes | These activities are designed to ensure that development activities involving water, geothermal, air, land and coastal resources do not negatively impact on the natural environment or put people's health at risk.  The region's natural resources need to be managed and allocated in a sustainable way, through fair and consistent assessment of resource consent applications, ongoing monitoring and enforcement and compliance with environmental legislation and consent conditions, and response to complaints about environmental pollution.  Strict time-frame compliance requirements apply to all consent processes. RMA amendments in 2010 required Councils to develop a fee discount policy for not meeting timeframes – see [link](http://www.qualityplanning.org.nz/index.php/supporting-components/consent-administration) to the QP website. Additionally, MfE surveys and reports timeframe performance for all councils every two years. |
| Regulatory | Monitoring consents and permitted activities | Yes | The intensity and frequency of monitoring and compliance enforcement is discretionary i.e. the level to which councils have pro-active (e.g. regular site visits) versus reliance on responding to public complaints. |
| Environmental Services | Air quality management | Yes | The mandatory functions are limited to enforcing the NES for Air Quality i.e. Regional councils must enforce the NES for Air Quality and ensure consents and any plans are consistent (or stricter) than the NES. Non-statutory air shed strategies are discretionary but may be an effective means of addressing localized problems, such as PM10 (particulate matter) non-compliance with the NES. NB: PM10 is fine suspended particulate matter, less than 10 microns in size, and responsible for a range of human respiratory ailments and visual air pollution. |
| Environmental Services | Water Management | Yes | The mandatory functions are focused on meeting the NPS for Freshwater Management, especially setting water quantity and quality limits and managing to those limits. Although water management has always been a traditional regional council activity, the limit setting aspect only became mandatory with the 2011 National Policy Statement for Freshwater Management. MfE is now proposing to amend the NPS by including a “National Objectives Framework”. Any WUA would need to maintain progress in this area.  GWRC has set out its NPS implementation timetable [here](http://www.gw.govt.nz/nps-implementation-timetable/) |
| Environmental Services | Land management / soil conservation | No | Land management services to landowners are discretionary. These services include sustainable land management advice, environmental farm plans, catchment facilitation and subsidized planting and fencing costs. This is a large and traditional area of regional council activity, often linked to biodiversity and biosecurity activity, and delivered through Land Management Officers (or similar).  There are elements of land management activity that will be important in delivering on mandatory National Policy Statement for Freshwater Management objectives e.g. if reduced sediment load is necessary to meet a water quality objective, working with landowners to reduce erosion can be a highly effective method. |
| Environmental Services | River management and land drainage | No | Flood management plans/schemes are discretionary but have a long history and form part of local infrastructure, with accompanying targeted rates. Levels of service (protection) may vary considerably, and assets may degrade slowly or rapidly in a major flood. The activity is enabled under the Soil Conservation and Rivers Control Act 1941 and the Land Drainage Act 1908.  It can be argued that river management is necessarily integrated with delivering mandatory National Policy Statement for Freshwater Management objectives.  GWRC, its predecessors and the Wairarapa community have made major historic investments in flood and drainage schemes. |
| Environmental Services | Science, monitoring and investigations | Yes | The Regional Monitoring Activity provides information on the current state of all natural resources and identifies trends. Data is gathered and used to investigate current environmental issues, analyse the effectiveness of plans and policies, assess the region's performance against national standards and guidelines and enable sound resource management decisions.  RMA s35 requires all councils to gather information and commission research “as necessary to carry out” its RMA functions. Monitoring and research is integrated across multiple RC functions, including administrative information (e.g. resource consent processing times) through to sophisticated state of the environment (SOE) monitoring. The latter is a critical part of the plan/do/monitor/review planning cycle i.e. monitoring underpins numerous other actions/activities. RMA-driven monitoring is complemented by LGA-mandated three-yearly monitoring of progress towards stated community outcomes.  The scope of science investigations is largely discretionary but should reflect the relevant scale, complexity and environmental risks e.g. major water use projects and significant habitat threats require extensive monitoring and research efforts.  Regional Councils collect a wide range of data that is collated for national SOE reporting and analysis, guided by the MfE-developed set of core national environmental indicators – see [link](http://www.mfe.govt.nz/publications/ser/enz07-dec07/html/chapter1-reporting/page3.html) . This is based on the “Driving force–Pressure–State–Impact–Response (DPSIR) model, which was developed from the OECD’s Pressure–State–Response model”.  Regional Councils must also identify contaminated soil and land, as required by the “National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health” which came into effect January 2012. District and City Councils have the function of regulating or managing land to avoid effects from such soil/land contamination. |
| Environmental Services | Plant and animal pest management | No | This activity is enabled under the Biosecurity Act 1993 and appears quasi-mandatory as all Regional councils carry out similar pest management functions, often in partnership with the Animal Health Board (AHB) and DoC.  All regional councils have developed Regional Pest Management Strategies even though these are not mandatory. Pest management responsibility has evolved with regional councils the default agency to plan, coordinate, act and monitor pest management on private land. See [link](http://www.landcareresearch.co.nz/__data/assets/pdf_file/0014/52232/the_future_of_pest_management_in_nz.pdf) |
| Environmental Services | Biodiversity protection | No | Although regional councils have a high level RMA obligation to protect and enhance biodiversity under Part II of the Act, the level of practical activity around biodiversity protection is discretionary. For aquatic biodiversity, it will become mandatory to monitor for “ecosystem health” as a mandatory environmental indicator via a proposed amendment (MfE Nov 2013, [link](https://www.mfe.govt.nz/publications/water/proposed-amendments-nps-freshwater-management/proposed-amendments-nps-freshwater-management.pdf) ) to the National Policy Statement for Freshwater Management.  Despite the largely discretionary nature of biodiversity protection, it has been an expanding RC role in recent years in response to national guidance (Biodiversity Strategy) and community pressure. GWRC has developed its own Biodiversity Strategy and Operational Plan ([link](http://www.gw.govt.nz/greater-wellington-biodiversity-strategy/)) and supports a large number of care groups focused on coast, stream, forest and wetland habitats ([link](http://www.gw.govt.nz/local-care-groups/)). |
| Amenities | Regional parks | No | Wellington is one of the few regional councils that owns and manages an extensive regional park network. However, only the Wairarapa Moana Wetlands Park is within the WUA area. Such reserves are vested and managed under the Reserves Act 1977 – this includes the writing and updating of reserves management plans. |
| Economic development | Wairarapa Water Use Project | No | Economic development activities are discretionary but enabled under the LGA with endorsement through a mandate agreed through the region’s LTP processes. There is considerable momentum and Government financial/policy support for promoting regional economic development, including water storage and use projects such as the Wairarapa Water Use Project<http://www.wairarapawater.org.nz/>.  More broadly, the Wellington Regional Strategy (WRS, revised 2012) was developed by the nine local councils in tandem with government and business, education, research and voluntary sector interests. The WRS is a sustainable economic growth strategy and its implementation are led by the economic development agency Grow Wellington – see [link](http://www.growwellington.co.nz/).  In addition, this activity may include advocacy, promotion and shareholding in public trading enterprises. |

Any consideration of the level of quality and quantity of delivery of discretionary activities is not always clear cut. Many of these activities might be necessary to underpin or support other mandatory environmental activities (such as funding of heating and insulation improvement programmes to support air quality and health outcomes for example). In addition the needs of the local community for protection of animals against TB or flood protection for infrastructure, property or productive land, will drive the need for a higher level/investment of non-mandatory activities, as contributing inputs to the necessary outcomes.

# 4 Investment in regional environmental activities

“Local Government Environmental Management – A study of Models and Outcomes by the Parliamentary Commissioner for the Environment and the Controller and Auditor General” (published 1999 - see full references at the end of this report) identified a number of key factors above and beyond the local authority structural model that were important in the effective design and delivery of environmental outcomes. Given the lack of studies and information that can be used as direct comparisons about environmental management we have used the PCE/OAG factors as part of our consideration of the two forms of unitary authority proposed: In summary the factors are:

**Integrated management:** Requires a commitment by elected representatives and management to take a leadership role on environmental issues and to effectively integrate:

* Its internal structures and processes
* Its short term and long term strategic focus and region wide perspective on environmental management
* The management of its external relationships (i.e the ability to work in partnership with tangata whenua and other agencies and stakeholders)
* The policies and methods (e.g. regulatory and non-regulatory) approaches adopted by the council.

**Environmental outcomes**: It is important that local government (in whatever form) states clear and measurable outcomes (including interim targets for long term outcomes) that enable progress in achieving them to be assessed:

* Shifts attention from (inputs &) outputs to outcomes as a measure of environmental performance (note this trend is evident in recent water and air management models)
* Establishes a monitoring regime capable of measuring progress towards meeting environmental outcomes
* Maintains and develops the appropriate mass of skills and expertise
* Allocates appropriate financial resources to achieve the environmental outcomes required.

**Separation of regulatory and service delivery functions:** where a Council has a mix of regulatory and service delivery functions to avoid conflicts of interest and transparency it is important that local government:

* 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 conflicts of interest
* Co-ordinates its regulatory and service delivery activities in a way that contributes to the achievement of environmental outcomes.

All unitary authorities face a challenge of managing development and regulatory functions that may conflict. For example, a district council municipal wastewater plant must seek resource consent from its local regional council whereas a unitary applies to itself for consent, subject to policy directions and receiving water quality standards that it has also set itself. This “poacher-gamekeeper” outcomes risk applies to all unitary authorities and must be weighed against the internal processing and alignment efficiencies that unitaries may achieve. To manage the potential internal conflicts, the OAG/PCE recommended that unitary authorities address this by “subject[ing] their environmental management performance to routine, independent audits, and that the results of such audits be made public” ([report](http://www.pce.parliament.nz/assets/Uploads/Reports/pdf/local_govt.pdf)). The size of an organisation, the experience and capability of its staff will be critical to the management of this separation of functions issue within any WUA. Note that the limited information available on comparative performance – for example, resource consent application processing statistics does not indicate that unitary councils are performing less well than other regional authorities (see MfE survey [link](http://www.mfe.govt.nz/publications/rma/review-consent-processing-performance-round-one-jan08/html/page2.html)).

**Table 3: Investment benefits and risks**

| **Category** | **Activity** | **Commentary** |
| --- | --- | --- |
| Regional planning | RPS | The second-generation Wellington RPS became operational recently – April 2013. If the WUA was to maintain similar policy directions (for general and Wairarapa-relevant references), then developing a WUA-only RPS would be easier. Although Wairarapa issues are covered throughout the RPS, there are no Wairarapa chapters, subheadings or specific policies.  However, if WUA wishes to change policy direction, as would seem consistent with splitting away from the rest of GWRC, then a major investment (staff, time, consultation and planning consultants) would be required. The timing of such changes to coincide with the 10 year cycle of reviews may reduce costs, but not to any significant degree.  **Risks of low activity investment:** increased delays, uncertainty and Environment Court litigation. This risk would flow on to other regional/district plan development processes.  Recent RMA amendments introduced the concept of “rolling reviews” of RPS documents, arguably increasing expectations and costs for keeping an RPS up to date. There is also the requirement to ‘digest’ any legislative change and have it reflected in regional policy.  In organisations with a full mix of operation service delivery and infrastructure development as well as regional environmental management functions, if the financial resources are marginal in terms of ratepayer base there is a real risk that the focus and investment of resources is on the short term (3 year cycle) issues and that longer term environmental issues are neglected or under invested in. This might apply to both district and regional responsibilities. |
| Regional Coastal Plan | The Wellington Regional Coastal Plan became operative in 2000 and is the largest and most complex of the five regional plans. It was complemented by the non-statutory Wairarapa Coastal Strategy in 2004 – see <http://www.gw.govt.nz/Wairarapa-Coastal-Strategy/>. Coastal planning is a recognized area of specialisation within regional planning and, given Regional Coastal Plans are mandatory, would need to be adequately resourced by a WUA. It is not clear where coastal policy directions would change from the draft GWRC directions, but policy changes if they were to occur would need to be underlain with expert science, as can be demonstrated in other areas with aggrading or retreating coastlines and potential climate change issues.  **Risks of low activity investment:** Risks are largely dependent on WUA policy direction, as per WUA RPS scenario.  This would be an area where attracting and retaining specialist skills and capability for a smaller organisation could be a challenge/risk. |
| Integrated planning | The unitary council model is able to achieve the integration of combined district plans, regional plans and a RPS as an “in-house” function, rather than through separate district and regional entities. The larger challenge is the effective planning integration of new regional priorities, particularly around water planning and its alignment with the National Policy Statement on Freshwater Management. |
| Regional Plan for Discharges to Land  Regional Air Quality Management Plan  Regional Soil Plan  Regional Freshwater Plan | As with developing a Wairarapa-specific RPS, the required level of resource investment into regional planning will partly depend on the degree of alignment or divergence from the current GWRC policy direction. GWRC has been developing a comprehensive draft combined regional plan that is also seeking to give effect to the National Policy Statement on Freshwater Management. The evolving WWUP will have strongly influence the freshwater regional plan component of any Wairarapa regional plan i.e. there should be comprehensive integration between the development orientated WWUP and the policy-driven regional plan. The integration of Hawkes Bay’s Ruataniwha irrigation scheme and HBRC’s Plan Change 6 illustrates this approach and the major investment in time and expertise required. Major changes in water use within the catchments would require a significant science input from GWRC or its successor(s) if reorganization were to occur.  **Risks:**  GWRC Comment: Land and Environmental plans are optional but considered fundamental for erosion control and water quality management  If the current combined draft regional plan meets WUA aspirations, and is amenable to “cut and paste” to a dedicated Wairarapa combined regional plan, then risks could be reduced. However, the complexity and importance of integrating the WWUP within a regional freshwater planning framework will demand a substantial WUA investment if both development benefits and water environmental goals (quality, quantity, habitat etc) are to be achieved. |
| Regulatory | Resource consent processing | Resource consent applications volume and complexity relate to population and economic growth. Should the Wairarapa Water Use Project proceed, it will likely stimulate major land use intensification with consequent resource consent processing demand. In addition to staff and consultant processing costs, the increasing use of commissioners for complex applications adds to the overall cost. Councils can mitigate that to some degree by shifting the boundary between permitted activities and those requiring resource consent through its plans, but this also requires a good analysis of how the permitted activity standards would comply with desired or required outcomes. RMA reforms may also propose changes here, but the whole area of regulation and how it relates to the statutory planning documents is inherently complex and inherently costly and the cost of ensuring that the documentation and process match is largely borne by the ratepayer.  **Risks:** Although resource consent processing costs can be recovered from applicants, this does not occur fully. In particular, regional councils need to engage a wide range of external planner, science and engineering expertise to assess applications and prepare officer reports. Additional risks may lie with poorer decision-making if not adequately resourced in this competitive space. While the objective may be “reducing red tape” the outcome may be environmental effects that are not pro-actively managed or simply unknown.  Attracting staff with the skills and experience to deal with applications could be challenge for a smaller organisation. Buying in expertise on a contract basis can also be costly and care must be taken to ensure adequate contractual management and good purchasing. This also requires in demand expertise and lack of it has shown up in council failures elsewhere in New Zealand.  Separation of consenting and operational functions within a smaller organisation becomes more difficult and risks of potential conflicts of interest/lack of transparency increase, although this is not inevitable and can be managed for, but must be deliberately factored in and planned for. |
| Monitoring consents and permitted activities | Monitoring cost-recovery is variable for resource consents and generally not possible for activities permitted by rules in a plan. For both (permitted and consented activities), the major **risks** may relate to greater adverse effects from lower monitoring and enforcement efforts and poorly constructed rules, particularly given this monitoring is largely a discretionary activity.  In a smaller organisation the possibility that monitoring and compliance function’s being “neglected” or underfunded in greater, although not inevitable, through lack of or only marginal resources. |
| Environmental Services | Air quality management | Regional councils must enforce the NES for Air Quality and ensure consents and any plans are consistent (or stricter) than the NES. Masterton has recurring as PM10 (fine particulate) non-compliance which has been highlighted in [local media](http://www.nzherald.co.nz/wairarapa-times-age/news/article.cfm?c_id=1503414&objectid=11071342). GWRC has run a clean heat scheme in collaboration with Masterton DC, similar to other collaborative clean heat schemes across New Zealand such as Bay of Plenty’s “hotswap” scheme – see [link](http://www.hotswap.co.nz/).  **Risks:** Lower resourcing of air quality management may lead to a cheaper reactive approach via responding to complaints plus ad hoc processing of resource consents when required by the NES, rather than the more expensive pro-active approach of developing and implementing an air-shed action plan.  Attracting or retaining specialised staff with appropriate skills could be an issue for a smaller organisation who might need to use consultants or a have a collaborative arrangement with adjacent organisations. |
| Environmental Services | Water Management | All regional councils and unitary authorities will need to make significant staff and consultant investment to implement the National Policy Statement for Freshwater Management. GWRC has commenced this process but it will need to continue indefinitely. Good water quantity and quality outcomes will be partly dependent on the level of resourcing, particularly in conjunction with the complexity of the Wairarapa Water Use Project.  **Risks:** Under-investment could lead to poorer understanding of land and water interactions and consequent unanticipated effects and/or overly constrained land development.  To reduce costs to council and potential resource consent applicants, there may be pressure to reclassify some activities as permitted. However, the cumulative effect of these activities may pose water quality risks. In particular, the diffuse discharge of nutrients from farms is a NZ-wide environmental challenge that other regional councils are addressing through resource consent processes e.g. Horizon’s One Plan (Rule 13.2) and Waikato Regional Council’s Lake Taupo Variation 6. Non regulatory approaches to improve water quality in catchments is often cited as an alternative approach when combined with good rules and the stick when catchment plans fail to achieve a desired result, however the level of input for non regulatory methods may initially be as great or greater than a strictly regulatory approach and may not reduce the resourcing impact on the responsible council. Monitoring activity is also necessary to underpin such voluntarist approaches. |
| Environmental Services | Land management / soil conservation | 40% of Wairarapa is considered erosion-prone. The early years of regional councils saw significant reductions in land management resourcing relative to catchment board era (with Government subsidies). This has been partly redressed, including an increasing focus on whole-of-catchment and community care initiatives. GWRC prepared and monitors farm environmental farm plans with some subsidised planting and fencing costs, including plants from its Masterton nursery operation. It also subsidises on farm work on an up to 50% basis in order to regain some of the environmental benefits under the previous catchment regimes. A reduction in the level of subsidy could reduce the incentive for landowners to contribute.  **Risks:** The episodic nature of major storms and erosion / flooding damage (e.g. Cyclone Bola in 1988, Manawatu floods require an organisation to have skills and experience to minimise loss to property and infrastructure and to assist with resilience or recovery when such events happen. |
| Environmental Services | River management and land drainage | Flood management plans/schemes require regular maintenance. Land use intensification, denser settlement patterns and rising land values can drive demand for higher levels of protection from flooding. Expertise is required in assessing (modelling) flood risk and implementing solutions. GWRC has scheduled major upgrades in several Wairarapa catchments (lower and upper Wairarapa; Waiohine), totalling $16.2 m through to 2023. The impacts of climate change add further analytical complexity and possibly cost. The flood-prone nature of the Wairarapa valley is illustrated in GWRC’s newsletter [here](http://www.gw.govt.nz/assets/council-publications/Wairarapa_Flood_Warning_Newsletter.pdf).  **Risks:** Under-investment could expose houses, farms, other assets and natural habitats to increased flood damage risk though lack of analysis, preparation and scheme maintenance/improvement. There may be short-term temptation to defer such investments for what can be relatively rare severe flood events, which have very high costs for the community if not managed well. |
| Environmental Services | Science, monitoring and investigations | While the scope of science investigations is largely discretionary, the demands of the National Policy Statement for Freshwater Management and potentially the WWUP will be substantial and spread over many years. An effective combination of in-house and contracted expertise is needed across a range of water, land, air and biological disciplines.  As is stated by the Ministry for the Environment on its website “there is no national framework to identify and capture consistent and comparable information on how the RMA is implemented or to measure the effectiveness (performance) across the RMA. To compound this, councils differ in what, when, where and how they monitor the RMA. From a council perspective, it is not always clear what is needed for national monitoring of the implementation of the RMA, therefore providing further information can require additional unplanned funding and resources. Funding pressures and local issues often impact on the extent of monitoring undertaken by councils, as monitoring funds can be spent on investigations from a regional or local perspective, which may not be of national significance. <http://www.mfe.govt.nz/rma/central/monitoring-review-project.html>  **Risks:** Enduring institutional science capability will be difficult to maintain in a relatively small WUA. Some form of shared-service provision (with other Regional councils) may be needed to address this. Administration and overheads may be reduced using this approach, but any field work and local input will have standard costs. pro-active approach of developing and implementing an air-shed action plan.  Again attracting or retaining the specialised staff with appropriate skills could be an issue for a smaller organisation who might need to use consultants or a have a collaborative arrangement with adjacent organisations. |
| Environmental Services | Plant and animal pest management | The on-going investment in possum and TB control is substantial across NZ, from both central and local government. Although collaboration between agencies (including regional councils) has been a positive feature for many years, it does rest on voluntary commitments and resourcing.  **Risks:** The discretionary nature of expensive ongoing pest control poses a risk if financial constraints limit local council budgets. Where reductions in subsidy or public input have occurred elsewhere; e.g. the New Zealand high country in the 80s and 90s, the effect has generally included a failure of property owners to deal with the issue and biosecurity crises eventuate.  In addition to the management of well-established plant and animal pests, a warming climate and increasing international trade and travel increases the risks of new pest incursions and the need for an organisation to retain competency and responsiveness. |
| Environmental Services | Biodiversity protection | **Risks**: The reduction or removal of investment in this area will lead to a reduction or loss of species in the region. Protection of species may be a component of meeting environmental components of treaty settlements. The potential for reduced investment also has risks for the Wairarapa in terms of loss of production through biosecurity crises. |
| Amenities | Regional parks | **Risk** – lack of amenity and meeting of community expectations |

# 5 Current and future drivers of regional activities (and cost)

There are a number of known drivers that we consider are likely to influence or impact upon the provision of regional environmental activities by any unitary authority. Several recent government “task force” reports have emerged with recommendations which can be translated into support for better regional planning activities in the foreseeable future. They are:

* Local Government Infrastructure Efficiency – Expert Advisory Group (EAG March 2013) pleading for better regional infrastructure, network strategies and spatial planning.
* Land and Water Forum second and third reports (LAWF 2012 & 2012a) – seeking greater collaboration with the regional communities, explicit water allocation and more national standards.
* Productivity Commission Report (PCR 2013) – improving planning by business, by central and by local government and this would assist.

In regards to environmental management issues, freshwater management is a very current issue that any unitary authority would have to address in the future.

**Central Government direction – the National Policy Statement for Freshwater Management**

The 2011 National Policy Statement for Freshwater Management (MfE, 2011) has placed major obligations on regional councils by requiring them to set objectives and limits to manage water quality. The NPS requires regional councils to amend regional policy statements and regional plans, to give effect to the NPS, with full implementation by 31 December 2030. Where councils cannot implement the NPS by the end of 2014 they must identify a programme of time-limited stages (to meet the 2030 date) against which they must report annually on their progress.

The NPS for Freshwater Management, and the recent (November 2013) proposed amendments, impose significant new obligations on regional and unitary councils for freshwater accounting. While councils are already involved in accounting for water quantity (NES for water takes) the new obligation to account for contaminants (water quality) is a significant new obligation. This function may increase as regional councils (and others) will need to provide information for the Government’s proposed three yearly SoE reporting – see [link](http://www.scoop.co.nz/stories/PA1308/S00134/govt-to-mandate-three-yearly-state-of-the-environment-report.htm)). Regional councils have continued to point out the cost that is associated with providing information/data for national reporting purposes. This may not always align with the information/data needed for local (regional) reporting purposes. Effectively the cost is placed on the ratepayer. Councils with a larger ratepayer base are more easily able to rate for such costs and all else equal impose fewer costs per ratepayer. This is particularly important where water quality is linked to intensive land use and therefore a greater need to monitor and manage water and nutrient flows.

**Key drivers of imposed costs:**

* The management of freshwater resources is currently a significant area of national and regional interest. This is reflected in the National Policy Statement for Freshwater Management (including the proposed amendments), including:
  + Setting values and limits through the national objectives framework, including the mandatory “minimum states” for ecosystem health and human health (for secondary contact, not “swimming”). Local communities may push for higher standards e.g. for bacterial contamination when a river is managed for swimming
  + Standardised freshwater accounting of takes and discharges
  + Developing good management practices with local rural industries

In addition the focus on water management also brings obligations to work collaboratively with stakeholders in implementing the NPS and the need for financial expertise that will be needed by any unitary authority council (internal or bought in). In general stakeholder collaboration is not a cost free activity and increasing emphasis on this tool is likely to increase the emphasis on affordability and being a financially sustainable organisation.

**Greater focus on non-point source pollution of waterways**

Regional councils are responsible for managing the activities that affect freshwater quality. Regional councils have done this in the past by limiting and setting quality standards for discharging wastewater from industry and sewage treatment plants to streams, rivers, and lakes. Although the effects of these direct discharges are still apparent in some places, the cumulative effects of "non-point source" discharges are now the most difficult challenge for regional councils in managing freshwater quality.

Non-point source discharges include nutrients, chemical pollutants, sediment, and bacteria that run off land or leach through soil into surface water and groundwater. In urban areas, the source is largely stormwater. In rural areas, the sources are animal urine and dung, fertiliser, eroding soil, dairy farm effluent and septic tanks. The Parliamentary Commissioner for the Environment (PCE) has identified the management of diffuse nutrient loss, especially from more intensive land use like dairying, as the most pressing water quality issue in NZ – see the PCE’s latest (November 2013) report [Water Quality in New Zealand - land use and nutrient pollution](http://www.pce.parliament.nz/publications/all-publications/water-quality-in-new-zealand-land-use-and-nutrient-pollution/). The NZ-wide trend to more intensive land use is ongoing, and likely to accelerate as new irrigation schemes are developed, such as the WWUP (discussed below).It will remain a core function of either GWRC or a WUA or other successor to manage the statutory and non-statutory responses and solutions to address on-point source pollution.

**Wairarapa Water Use Project (WWUP)**

The WWUP is an ambitious water storage and irrigation scheme for the Wairarapa valley. The WWUP aims to build a series of water storage dams that “harvest” water in times of high flow (mainly winter) that can then augment river flows, enabling a higher level of water take. It is estimated WWUP will allow an increase in total Wairarapa irrigated land from 12,000 hectares to about 42,000 hectares. The WWUP [website](http://www.wairarapawater.org.nz/Project_Overview/The_Proposal) described economic benefits:

"*The Project will provide a strong net benefit to both the Wellington Region ($330 million) and the Wairarapa community ($407 million) over the projected 25 years.*"

GWRC has actively supported the WWUP financially and politically, with central government support from the Irrigation Acceleration Fund. Several environmental investigations have also been funded by GWRC. Initial feasibility studies have been positive and it is anticipated that a comprehensive set of resource consent applications and designations will be sought in the next few years. The WWUP website indicates the project may be accompanied by a RMA plan change process, analogous to the Ruataniwha scheme in Hawkes Bay. While it also possible that WWUP may follow a “call-in” procedure similar to Ruataniwha, the resource demands on either GWRC or a WUA will be substantial and extend over several years. ‘Call ins” reduce the options a council has to recover costs and any input, which can be substantial must in general be borne by the ratepayer, even if reserves are drawn down.

**Improved and/or more widespread flood protection initiatives from rising expectations and increased value of assets at risk**

Rising land values tend to drive rising expectations of asset protection. The WWUP, like other irrigation schemes, is likely to cause substantial land value increases as the potential profits of more intensive land use are capitalised. The consequence will be pressure to improve flood protection from stopbanks and other expensive infrastructure. However, more severe storms associated with climate change means additional investment may be needed simply to maintain current levels of flood protection. Currently work is likely to be required on several Wairarapa river systems; e.g., routine removal of gravels is required in order to mitigate or avoid potential flooding in areas such as Masterton.

**Possible additional / unpredictable drivers of regional environmental services**

* Co-governance arrangements associated with Treaty settlements
* Water permit trading e.g. trading within the WWUP scheme, which could increase land value and therefore potential risk from not being able to afford appropriate levels of flood management
* Increased plant and animal pest incursions, possibly associated with changing climate or just the inherent risk of incursion over long time periods
* Increased coastal erosion and hazards due to sea level rise and/or more severe weather
* Central government requirements for better monitoring and reporting or environmental activities and outcomes.

In summary we believe that there are clear emerging environmental management trends and demands that any future local government structure working at the regional level will have to manage. These include:

* The need for an increased focus on regional planning and development for infrastructure and coordinated regional economic development (e.g. regional spatial plans);
* The legislative and non legislative pressure for better environmental outcomes and more sophisticated environmental management over issues such as water quality and allocation;
* Additional environmental co-management responsibilities arising from treaty settlements with Maori
* Increasing demands for better science, monitoring and reporting associated with environmental functions.

These factors and other trends associated with regional environmental management (the need for more sophisticated science – the need to deal with the potential impacts of climate change etc) all point towards more rather than less demand for resources (both people and money) for regional environmental management in the foreseeable future.

# 6 A Comparison between Marlborough and a Potential Wairarapa Unitary Authority

The following section is our commentary on the similarities and differences between Marlborough and the Wairarapa – a comparison that the parties have used in their reports and assessments.

BERL (2013) notes the following similarities between MDC and a potential WUA:

* Population: MDC 45k, WUA 40k
* Rateable properties: MDC 24k; WUA 23k
* Largely rural, no cities

Additional similarities between MDC and a WUA:

* Broadly comparable land use mix: dairy, drystock, viticulture / horticulture, irrigation, production forestry, indigenous vegetation cover (acknowledging some notable differences such as more alpine and drier landscapes in MDC).
* Substantial erosion and earthquake risks contributing to long-term land management challenges
* Blenheim and Masterton both have air quality problems
* Both have major connected surface and groundwater systems (Wairau, Ruamahanga) and both are under growing water abstraction pressure associated with land use intensification. A comprehensive technical review of the Wairarapa valley water resources and possible sustainable management options can be found [here](http://www.wairarapawater.org.nz/Portals/153/WairarapaValleyGroundwaterManagementReport.pdf)

Differences between MDC and a WUA:

* Status and scale of established irrigation schemes i.e. these schemes are more mature/established in MDC while Wairarapa is about to embark on major irrigation development.
* Marlborough DC has been a unitary authority since 1989 and has the obvious advantage of being a well-established entity with the full suite of staff capability, systems and documentation (statutory and non-statutory) to fulfil its regional council obligations.
* Marlborough has a different range of soil types and also true dry-land areas, which require less intervention.
* Marlborough has a higher level of income from and involvement in the coast. The involvement of a potential WUA would be related to managing the effects of climate change and ordinary coastal processes.

The similarities between MDC and a WUA appear to be in part a sound basis for comparative analysis. However we do have some reservations about the lack of detail on finances, number of staff, their roles and some sense of how well MDC currently meets (or does not meet) required environmental outcomes. For example, do they have acceptable air and water quality that would make this level of investment on resource management “optimal” or required in future years.

# 7 Funding gap impacts on regional environmental activities and outcomes

The reduction of resources into the environmental activities could well reduce the effectiveness of those activities and result in poor environment outcomes – particularly in the long term – note that effects on environmental systems may take some years for failures to be evident. This will tend to vary according to the degree of pressure/state and response for each issue (e.g. water management) in the region and the community’s expectations about the quality of environmental outcome wanted.

In addition any unitary authority will need to attract the staff with sufficient skills and experience capability to carry out these activities – a factor which “investment” patterns by the unitary authority will influence. As a general rule under investment can continue for longer where there is considerable experience amongst staff, but gaps appear more obvious when experienced staff retire or move on. In Table 3 we have look at each activity and the risks of reduced service levels.

The degree of impact/risk is also dependant on the current starting point for each activity. Is the current investment optimal for the environmental outcomes required? The lack of comparative studies and data about this across the country makes it difficult to assess how any “reduction” might impact on the environmental outcomes where the baseline is not clear. The general rule however, is that the higher the contributing population the more options the authority has.

BERL’s comparison of the Martin Jenkins and PwC financial analyses (dated February 2013 and April 2013 respectively) highlighted the different assumptions of “environmental service” spend. The Martin Jenkins estimate of a $1m lower spend (net $3.7m spend) was justified by comparison with MDC as a comparable unitary authority benchmark i.e. MDC spends $164 per person on environmental services (2011/2012 financial year), compared with an estimated $282 per person for a WUA. Economic benchmarking was done by Morrison Low in their 2012 report (see full reference at the end of this report) but the comparisons per capital per hectare take no account of the current level of environmental quality, particular environmental challenges for each area and what environmental outcomes are trying to be achieved.

As noted above, the limited breakdown of what “environmental services” comprises means this is difficult to explore further as a comparison. It can still be stated though as a general rule that a reduced budget in specialist areas of environmental services will lead to correspondingly reduced levels of service and outcomes, all else equal. In other words there has to be a special reason, particular to a place, as to why a reduction would lead to continuing good outcomes.

The likely funding reduction in environmental services under a WUA model needs to be considered alongside pressures which will increase expectations to deliver more environmental services, not fewer. Some of these pressures are generic and will likely affect Marlborough District Council’s levels of expenditure.

The pressures to expand environmental services include:

* Central government expectations of regional council performance in water management have risen substantially with the ongoing freshwater reform policies, notably the National Policy Statement for Freshwater Management and related initiatives:
  + National Objectives Framework
  + Improved environmental reporting
* Increasing public pressure on tackling water quality
* Pursuit of collaborative policy development approaches, in line with the Land and Water Forum recommendations. As well as being more costly in terms of time and staff input needed, it is likely to generate a more comprehensive set of policies that require follow-through implementation initiatives.

There are likely to be substantial “one-off” costs to establish the suite of Wairarapa-specific RMA regional plans and processes – note this can occur over time, but cannot be avoided. Some processes will be moderately similar to existing district functions e.g. processing resource consents. However, the statutory RPS and regional plans are major commitments that can take many years to navigate through multiple staff, public and legal steps. This regional council functionality will need to be built while also meeting concurrent demands to improve environmental services due to the pressures noted above (also described in LAWF 2012 & 2012a, PCE 2013).

The diversity of regional/unitary approaches and conditions across the country and the very limited comparative analysis between them means it is not possible to draw firm conclusions about the relative need and delivery of environmental services in Wairarapa. It is clear from the reports provided that the WUA intends to reduce environmental services annual funding by about $1 million relative to GWRC expenditure.

**Conclusion** - We consider that the reduction in funding proposed (compounded over time) in conjunction with the known increase in demands for greater and more sophisticated environmental management services and capability will result in a greater risk of poorer environmental outcomes across the region. We consider that the size of any proposed WUA and its ability to draw upon financial and resources will be linked to its ability to deliver the required environmental service.

# 8 Comparison of best practice

We were asked to provide background information that would allow the Commission to compare the proposed activities of any WUA with current best practice (with respect to environmental management services) within regional councils and unitary authorities from around the country.

The work we have done for this report has highlighted to us the lack of qualitative or quantitative comparisons across regional and unitary authorities, with the limited exception of MfE's biannual resource consent application timeframe survey and the OAG's 2011 review of freshwater management (which reviewed the performance of four regional councils - Waikato, Taranaki, Horizons and Southland).

Some benchmarking was done by Morrison Low in their 2012 report (see full reference at the end of this report) but the comparisons per capital per hectare take no account of the current level of environmental quality, particular environmental challenges for each area and what environmental outcomes are trying to be achieved.

A more comprehensive review will be a significant and complex undertaking, not least because all regional and unitary authorities have adopted different approaches to environmental management issues including the way they carry out mandatory functions like:

* Statutory RMA plans – (including variable combinations of or focus on: air; land; water; land and water; discharges; soils/sediment/earthworks; catchment-specific plans)
* Environmental services structures (including work-stream subdivisions between land management, biodiversity, pest management, water management, flood/drainage management and environmental investigations/science).
* Environmental reporting and reviews of policy effectiveness

While regions are physically diverse, the diversity of environmental management appears to be driven more by organisational history and culture than the statutory functions or model of local government.

We have (in Table 4 below) provided examples where we feel that these activities are (in our opinion) currently being done well. This might aid the Commission to address “what good looks like” in specific cases but not directly compare overall regional environmental performance; i.e., they are indicators that should be considered along with other indications of likely performance.

**Table 4: Exemplars of Regional Authority Activities**

| **Category** | **Activity** | **Organization and Commentary** |
| --- | --- | --- |
| Regional planning | RPS | The Northland Regional Policy Statement received a RMA documentation award in 2013 from the influential Resource Management Law Association (RMLA) due to its holistic approach, logical construction and collaborative development process – see [link](http://www.nrc.govt.nz/Resource-Library-Summary/Plans-and-Policies/New-Regional-Policy-Statement/) |
| Regional Coastal Plan | The NZ Coastal Policy Statement was released in 2010, followed by the Marine and Coastal Area (Takutai Moana) Act 2011 ([link](http://www.legislation.govt.nz/act/public/2011/0003/latest/DLM3213131.html)). Therefore more recent regional coast plans may serve as useful exemplars for a WUA.GWRC notes that its coastal plan it its most complex regional plan. A snapshot of the diverse and complex issues that regional coastal plans can be gained from the “Coastal News” professional newsletter – see [link](http://www.coastalsociety.org.nz/Newsletter/pdfs/CN53%20EMAIL.pdf) |
| Integrated planning | The Quality Planning (QP) website provides Method 6.1.7 in the [Environment Waikato Regional Plan](http://www.waikatoregion.govt.nz/Council/Policy-and-plans/Rules-and-regulation/Regional-Plan/Waikato-Regional-Plan/6-Air-Module/61-Regional-and-Local-Air-Management/617-Implementation-Methods---Effects-of-Land-Use-on-Air-Quality/) as an example that clarifies the respective roles of the regional and district councils, and how the relationship between air quality functions and the effects of land uses will be managed.  Given the smaller area and population of a WUA, and its unitary status, the in-house resolution of Wairarapa-wide planning matters may be easier / cheaper than the status quo. It is noted that typical “integrated planning” matters like waste minimisation and recycling initiatives are discretionary. |
| Regional Plan for Discharges to Land  Regional Air Quality Management Plan  Regional Soil Plan  Regional Freshwater Plan | As above, the required level of resource investment into regional planning will depend on alignment/divergence from the various GWRC policy directions.  The Waikato Regional Council received RMLA’s 2011 Document award for its Regional Plan Variation No. 5 related to Lake Taupo water quality, stated that “The lessons learned and the examples set by Variation No. 5 are expected to be reviewed for other catchments and trading schemes internationally and nationally” ([link](http://www.rmla.org.nz/scholarships-awards/award/year/2011)).  While Variation 5 may be an exemplar of addressing water quality challenges, it is sobering that the process took 11 years from initial consultation to operative status.  In terms of air plans, the Quality Planning (QP) website references the Nelson Air Quality Plan as a good practice example, with a strong focus on airborne particulates (PM10) – this is relevant to ongoing Wairarapa urban air quality QP states that the Nelson Air Quality Plan “is comprehensive and clear - and working well in practice ([link](http://www.qualityplanning.org.nz/index.php/planning-tools/air-quality/best-practice-examples)). |
| Regulatory | Resource consent processing | MfE conducts a biennial survey of local authority RMA performance, including resource consent volume, timeliness, % notified and % declined. The survey history shows a clear trend of improving performance over the past 15 years. One good performer is Marlborough District with 95% on-time, particularly notable given the high number of consents processed(1100) (Note many are standard water take and discharge consent applications related to rural living and landuse that are dealt with on a catchment basis where much of the wider analysis had been carried out) and relatively higher proportion of notified applications (~19%of consents notified in 2010/11). The three Wairarapa councils also had good performance with an average of 96% within timeframes, albeit from a modest combined total of 238 consent applications.  The best 2010/11 regional council consent processing performance was from Taranaki RC with 100% processed within timeframes – see [link](https://www.mfe.govt.nz/publications/rma/annual-survey/).  Taranaki Regional Council (TRC) has maintained 100% compliance with RMA timeframes. MfE has also highlighted the quality and robustness of TRC's consent processing service. TRC's success is attributed to multiple "key success factors" including: a positive work culture focused on customer service; setting and publishing performance objectives and measures; investment in pre-application and pre-hearing processes. See <https://www.mfe.govt.nz/publications/rma/resource-consent-processing-case-studies/taranaki-regional-council-case-study.html> |
| Monitoring consents and permitted activities | The QP website provides comprehensive guidance on consent monitoring best practice – see [link](http://www.qualityplanning.org.nz/index.php/monitor/resource-consents-and-compliance)  In terms of LGA reporting, the OAG cites BOPRC’s annual plan as a clear progress reporting style – see [link](http://www.oag.govt.nz/2011/local-government-annual-reports/part3.htm). In terms of enforcement actions however, the OAG has serious concerns about the involvement of political representatives in deciding on enforcement action for breaches of plan or consent conditions.  Again, the QP website’s “Enforcement Manual” provides a useful national reference of best practice – see [link](http://qualityplanning.org.nz/index.php/manual). |
| Environmental Services | Air quality management | The Waikato Regional Council has gazetted 20 urban areas as air-sheds for the purposes of meeting the national environmental standards for air quality – see [link](http://www.waikatoregion.govt.nz/Environment/Natural-resources/Air/Airsheds/).  The QP website cites Northland Regional Council’s Rule 9.1.9 of the Operative Regional Air Quality Plan for its management of agrichemical application and best practicable option approach – see [link](http://www.nrc.govt.nz/upload/1653/Regional%20Air%20Quality%20Plan%20for%20Northland.pdf). |
| Environmental Services | Water Management | The OAG 2011 report “Managing freshwater quality: Challenges for regional councils” audited four councils – Waikato, Taranaki, Horizons and Southland. It found Taranaki to be performing well in terms of meeting most water quality thresholds and its integrated water management approach – see [link](http://www.oag.govt.nz/2011/freshwater). Taranaki has long been recognized for its innovative riparian management plan aimed at improved stream habitat and water quality by fencing and planting stream margins – see <http://www.trc.govt.nz/riparian-case-studies>. Key drivers of the TRC riparian programme are staff preparation of staged “riparian management plans” and a large-scale subsidised (and costly) native plant provision.  The Land and Water Forum is an example of and a driver of collaborative water policy development. A holistic approach to water management straddles statutory activities (RPS, plans, and the resource consent life cycle) as well as implementation. The collaborative zone committee approach adopted by Environment Canterbury is making steady progress in developing “Zone Implementation Plans” and associated formal RMA plan change processes e.g. the Hurunui-Waiau Zone Committee was formed in 2010, developed their ZIP by August 2011 and the associated plan change was adopted in April 2013, albeit via the expedited Ecan special legislation – see [link](http://ecan.govt.nz/get-involved/canterburywater/committees/hurunui-waiau/Pages/default.aspx). Staff resource support of the collaborative process is substantial and ongoing.  Lake Rotorua has faced significant water quality problems from nutrient enrichment with significant inputs from catchment farms – note that part of the Wairarapa may also face this issue to a lesser degree, but still significant; e.g., Lake Wairarapa. The Bay of Plenty Regional Council is now pursuing a collaborative policy development path using a catchment “Stakeholder Advisory Group” with a mix of representation from farmers, iwi, environmentalists and others – see [link](http://www.rotorualakes.co.nz/stag). |
| Environmental Services | Land management / soil conservation | Horizons Regional Council has implemented a comprehensive “Sustainable Land Use Initiative” (SLUI) to address accelerated erosion problem in the region’s highly erodible hill country - see[link](http://www.horizons.govt.nz/managing-environment/sustainable-land-use-initiative-slui/). A key component is the development of [Whole Farm Plans](http://www.horizons.govt.nz/managing-environment/sustainable-land-use-initiative-slui/whole-farm-plans/) with individual farmers. Note this requires intensive engagement with and support of landowners and is not a cheap process in the first years. |
| Environmental Services | River management and land drainage | There is a range of national guidance on key environmental service provision. For example, there is comprehensive guidance on effective flood management - see this [report](http://www.mfe.govt.nz/publications/land/meeting-challenges-of-future-flooding-in-nz/html/index.html) which is based on input from several regional councils and consulting engineers. However, there is no comparison across regional councils of levels of protection (service), costs, benefits and risks. Therefore it is not easy to, or perhaps even practicable, to assess the relative levels of service for the Ruamahanga River and its tributaries which have a history of major floods. |
| Environmental Services | Science, monitoring and investigations | While the scope of science investigations is largely discretionary, the demands of the National Policy Statement for Freshwater Management and potentially the WWUP will be substantial and spread over many years. An effective combination of in-house and contracted expertise is needed across a range of water, land, air and biological disciplines.  **Risks:** enduring institutional science capability will be difficult to maintain in a relatively small WUA. Some form of shared-service provision (with other Regional councils) may be needed to address this. |
| Environmental Services | Plant and animal pest management | No Example provided, but see comments above in this report on biosecurity issues |
| Environmental Services | Biodiversity protection | No Example provided |
| Information systems | “Back office” support across all activities | All council environmental and regulatory services need back office support. Councils are increasingly looking at collaborative initiatives to share costs and expertise. For example:  Six regional councils collaborated on a large scale IT services project “to develop and share specialist technical software required for core functions. The Integrated Regional Information System (IRIS) is one of the largest local government shared-services project ever undertaken in New Zealand and won the ‘Joined Up Local Government’ Excellence Award at this week’s Society of Local Government Managers  - see [link](http://www.horizons.govt.nz/about-us/who-what-where/news/region-shares-in-large-scale-excellence-award/).  Other regional councils are invited to join and it appears this would be applied to unitary authorities such as WUA. Broad guidance on “shared services for local government” has been provided by LGNZ [here](http://www.lgnz.co.nz/assets/Uploads/Shared-services.pdf). |

# 9 Disclaimer

This report has been prepared by Martyn Pinckard and Simon Park with care and diligence. The statements and opinions given by us are in good faith and in the belief on reasonable grounds that such statements and opinions are correct and not misleading. However no responsibility is accepted by us for errors or omissions arising out of the preparation of this report, or for any consequences of reliance on its content, conclusions or any material, correspondence of any form or discussion arising out of or associated with its preparation.

# 10 Contacts for this report

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# Appendices 1: Key legislation covering regional and unitary authorities environmental activities

**Resource Management Act 1991**

**Section 30: Functions of regional councils under this Act**

##### Functions of regional councils under this Act

(1) Every regional council shall have the following functions for the purpose of giving effect to this Act in its region:

(a) the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the natural and physical resources of the region:

(b) the preparation of objectives and policies in relation to any actual or potential effects of the use, development, or protection of land which are of regional significance:

(c) the control of the use of land for the purpose of—

(i) soil conservation:

(ii) the maintenance and enhancement of the quality of water in water bodies and coastal water:

(iii) the maintenance of the quantity of water in water bodies and coastal water:

(iiia )the maintenance and enhancement of ecosystems in water bodies and coastal water:

(iv) the avoidance or mitigation of natural hazards:

(v) the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances:

(ca) the investigation of land for the purposes of identifying and monitoring contaminated land:

(d) in respect of any coastal marine area in the region, the control (in conjunction with the Minister of Conservation) of—

(i) land and associated natural and physical resources:

(ii) the occupation of space in, and the extraction of sand, shingle, shell, or other natural material from, the coastal marine area, to the extent that it is within the common marine and coastal area:

(iii) the taking, use, damming, and diversion of water:

(iv) discharges of contaminants into or onto land, air, or water and discharges of water into water:

(iva) the dumping and incineration of waste or other matter and the dumping of ships, aircraft, and offshore installations:

(v) any actual or potential effects of the use, development, or protection of land, including the avoidance or mitigation of natural hazards and the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances:

(vi) the emission of noise and the mitigation of the effects of noise:

(vii) activities in relation to the surface of water:

(e) the control of the taking, use, damming, and diversion of water, and the control of the quantity, level, and flow of water in any water body, including—

(i) the setting of any maximum or minimum levels or flows of water:

(ii) the control of the range, or rate of change, of levels or flows of water:

(iii) the control of the taking or use of geothermal energy:

(f) the control of discharges of contaminants into or onto land, air, or water and discharges of water into water:

(fa) if appropriate, the establishment of rules in a regional plan to allocate any of the following:

(i) the taking or use of water (other than open coastal water):

(ii) the taking or use of heat or energy from water (other than open coastal water):

(iii) the taking or use of heat or energy from the material surrounding geothermal water:

(iv) the capacity of air or water to assimilate a discharge of a contaminant:

(fb) if appropriate, and in conjunction with the Minister of Conservation,—

(i) the establishment of rules in a regional coastal plan to allocate the taking or use of heat or energy from open coastal water:

(ii) the establishment of a rule in a regional coastal plan to allocate space in a coastal marine area under [Part 7A](http://www.legislation.govt.nz/act/public/1991/0069/latest/link.aspx?search=sw_096be8ed80caf609_section+30_25_se&p=2&id=DLM236003):

(g) in relation to any bed of a water body, the control of the introduction or planting of any plant in, on, or under that land, for the purpose of—

(i) soil conservation:

(ii) the maintenance and enhancement of the quality of water in that water body:

(iii) the maintenance of the quantity of water in that water body:

(iv) the avoidance or mitigation of natural hazards:

(ga) the establishment, implementation, and review of objectives, policies, and methods for maintaining indigenous biological diversity:

(gb) the strategic integration of infrastructure with land use through objectives, policies, and methods:

(h) any other functions specified in this Act.

**Local Government Act 2002**

**Section 5 Interpretation**

**local authority** means a regional council or territorial authority

**region**—

(a) means the region of a regional council; and

(b) includes the district of a territorial authority, if the territorial authority is a unitary authority

**regional council** means a regional council named in [Part 1](http://www.legislation.govt.nz/act/public/2002/0084/latest/link.aspx?search=sw_096be8ed80d1c49a_regional_25_se&p=1&id=DLM174259) of Schedule 2

**unitary authority** means a territorial authority that has the responsibilities, duties, and powers of a regional council conferred on it under—

* + (a) the provisions of any Act; or
  + (b) an Order in Council giving effect to a reorganisation scheme

Section 12 Status and powers

(5) A regional council must exercise its powers under this section wholly or principally for the benefit of all or a significant part of its region, and not for the benefit of a single district

**Section 17 Transfer of responsibilities**

(1) A regional council may transfer 1 or more of its responsibilities (other than a responsibility that may be transferred under [section 33](http://www.legislation.govt.nz/act/public/2002/0084/latest/link.aspx?search=sw_096be8ed80d1c49a_regional_25_se&p=1&id=DLM232593) of the Resource Management Act 1991) to a territorial authority in accordance with this section.

(2) A territorial authority may transfer 1 or more of its responsibilities (other than a responsibility that may be transferred under [section 33](http://www.legislation.govt.nz/act/public/2002/0084/latest/link.aspx?search=sw_096be8ed80d1c49a_regional_25_se&p=1&id=DLM232593) of the Resource Management Act 1991) to a regional council in accordance with this section

**Section 21 Local authorities**

(1) Local government in New Zealand consists of the following local authorities:

(a) regional councils; and

(b) territorial authorities.

(2) Every part of New Zealand (other than the Chatham Islands) that is within the district of a territorial authority must also be within the region of 1 or more regional councils.

(3) [Part 3](http://www.legislation.govt.nz/act/public/2002/0084/latest/link.aspx?search=sw_096be8ed80d1c49a_regional_25_se&p=1&id=DLM174264) of Schedule 2 applies to the boundaries of regions and districts.

**Section 23 Description of local government**

(1) A territorial authority must be either a city council or a district council.

(2) A territorial authority that is a city council must be described as the “[*name of city*] City Council”.

(3) A territorial authority that is a district council must be described as the “[*name of district*] District Council”.

(3A) However, a territorial authority created as a unitary authority after 1 July 2013 must be described as “[*name of city or district*] Council”.

(4) A regional council must be described as the “[*name of region*] Regional Council

**Section 149 Power of regional councils to make bylaws**

(1) A regional council may make bylaws in relation to the following matters:

(a) forests that the regional council owns or controls, whether or not the forest is within the region of the regional council:

(b) parks, reserves, recreation grounds, or other land that the regional council owns or controls:

(c) flood protection and flood control works undertaken by, or on behalf of, the regional council:

(d) water supply works undertaken by, or on behalf of, the regional council.

(2) Without limiting the generality of subsection (1), bylaws may be made in relation to the matters listed in subsection (1) for the purpose of managing, regulating against, or protecting from, damage, misuse, or loss, or for preventing the use of,—

(a) the real and personal property owned or controlled by the regional council; and

(b) sites or places on land of the regional council that have cultural, historical, recreational, scientific, or other community or amenity values

**Section 161 Transfer of bylaw-making power**

(1) A territorial authority may transfer all or any of its powers to make bylaws—

(a) to a regional council if any part of the district of the territorial authority is within the region of that regional council; or

(b) to another territorial authority.

(2) A regional council may transfer all or any of its powers to make bylaws to a territorial authority within its region or to another regional council.

(3) The provisions of [section 17](http://www.legislation.govt.nz/act/public/2002/0084/latest/link.aspx?search=sw_096be8ed80d1c49a_regional_25_se&p=1&id=DLM171822) apply in relation to a transfer under this section.

(4) A local authority must not transfer or delegate the power to make bylaws, except as provided for in this section.

**Schedule 2 Part 3 Boundaries**

Schedule 3 deals with the reorganisation of local authorities.  There are specific references relating to unitary authorities and matters to consider etc

**3 Unitary authorities**

(1) A territorial authority that is a unitary authority has—

(a) the responsibilities, duties, and powers of a territorial authority in respect of the district for which it was constituted; and

(b) the responsibilities, duties, and powers of a regional council in respect of the region over which it has control.

(2) If a territorial authority is a unitary authority, the boundaries of the district of the territorial authority and those of the region over which it has control, except the seaward boundaries, are the same.

**4 Savings provisions for unitary authorities**

If, immediately before the commencement of this Act, a territorial authority has, under [section 37N](http://www.legislation.govt.nz/act/public/2002/0084/latest/link.aspx?search=sw_096be8ed80d1c49a_unitary_25_se&p=1&id=DLM416465) of the Local Government Act 1974, the responsibilities, duties, and powers of a regional council as well as its own responsibilities, duties, and powers, then the territorial authority—

(a) continues to have the responsibilities, duties, and powers of the regional council; and

(b) is a unitary authority for the purposes of this Act

**SOIL CONSERVATION AND RIVERS CONTROL ACT 1941, LAND DRAINAGE ACT 1908, AND RIVER BOARDS ACT 1908**

The SCRCA, LDA and RBA form part of a number of Acts that manage floods in New Zealand. They are empowering statutes, providing essential operational powers for regional councils and territorial authorities to enter onto and use land to carry out works to protect property from flood damage and prevent soil erosion. The SCRCA, in particular, is the most important statute for taking active steps to prevent flooding or control its effects. It also contains some important clauses relating to soil conservation.

The three Acts were amended with the enactment of the RMA to make their powers subject to the RMA. In essence, the powers of local authorities under the Acts are subject to the procedures of the RMA. Although the Acts provide authorities with quite broad powers to enter and use property to manage flood risk, they are subject to existing protection for private property rights as part of the wider legal framework. Particularly relevant are provisions in the Public Works Act 1981, SCRCA and Local Government Act 2002 (LGA02). There are also controls under the RMA – for example, section 13 places a restriction on certain uses of beds of lakes and rivers unless expressly permitted by a national environmental standard, regional plan or resource consent.