

A better way to punish councils

If you've been following the local body election campaign you may be mystified by what happened at the New Plymouth mayoral debate - Yarrow Stadium barely featured.

It wasn't until nearly an hour elapsed that one of the six candidates, Joanne Kuvarji, asked sitting mayor Neil Holdom to explain why his council accepted Taranaki Regional Council's plan to spend \$50 million restoring the arena.

As he asked Holdom to respond, forum facilitator (*Taranaki Daily News* editor) Matt Rilkooff remarked on how long it had taken the issue to emerge (50 minutes), his surprise no doubt partially based on various commentators' claims (mine included) that the stadium would be the election's most contentious topic.

Holdom was expecting it, judging by his comprehensive response.

My theory is New Plymouth District Council (and the other district councils) escaped heavy condemnation because voters understand it was regional council pressure that saw a nine-votes-to-five decision to go with it.

Holdom alluded to that side of the affair, but finished his defence with something that caught my attention, an aspect that hasn't had much, if any, publicity. He mentioned his council's relationship with the regional council over matters to do with the environment.

We can only guess at Yarrow Stadium's relevance to that.

District councils own and operate infrastructure, something that takes 80 percent of their time and money. It's pipes and water, sewage and stormwater, streams and lakes, things that need to be tightly managed via that joyless process, the resource consent.

Councils need one every time they want to build or renew anything, and if they're related to the natural environment the body they must approach to get a thumbs-up is the regional council. With that in mind, local government law forbids anyone from being a member of the regional council at the same time as being a district councillor. Robbers can't be cops, and vice versa.

That presumably leads to some tensions. Once the TRC issues a resource consent to a district council it must report annually on that council's performance in meeting the consent conditions, which highlight indiscretions the TRC's inspectors will look for, such as nasty things spilling into waterways.

If a spill is reported, the TRC has a range of escalating responses in its policing policy, beginning with a phone call or letter, then an abatement notice, followed by an infringement notice, possibly an Environment Court cease-and-desist order, and when all else fails - or if the offence is bad enough - prosecution.

That might mean prosecution of a district council. In 2015, South Taranaki District Council copped a fine of \$115,000 for its part in a dairy effluent problem in Eltham. It pleaded guilty, so undoubtedly saved its ratepayers having to shell out for a lot of legal defence costs.

Now, New Plymouth District Council faces prosecution by TRC for a 1.5 million litre sewage spill at a troublesome pumping station at Bell Block last summer. Ratepayers can expect to see some of our contributions to the council head for lawyers' pockets and the coffers of TRC.

Was Holdom hinting that opposing TRC any further on the stadium might somehow lead to a tougher line from the regional council over resource consent failures? Surely not, given TRC councillors don't get to decide who should be prosecuted or let off on environment charges.

The picture wasn't so clear a decade ago when the Auditor-General's office took a look at how regional councils handled such matters, recommending in a 2011 report that councils "review their delegations and procedures for prosecuting, to ensure that any decision about prosecution is free from actual or perceived political bias".

TRC now has clear separation between elected councillors and its staff. The council determines overall policy on enforcement of environmental monitoring, but staff decide (with independent legal advice) who is taken to court.

That seems clear enough, but something disturbs me about all this. I guess companies and farmers have to take it on the nose if they transgress, because the council's process allows plenty of discretion and time to get into line; but one council prosecuting another seems daft to me. All that happens is the same ratepayers must shell out to enrich lawyers and the TRC.

Here's a better idea: no court or lawyers should be involved. District councils who transgress should be ordered by TRC to pay costs the equivalent of a fine towards fixing the infrastructure problem.

Surely a better use of ratepayer money.