

## **Submission**

**To: New Zealand Productivity Commission  
PO Box 8036  
The Terrace  
WELLINGTON 6143**

**By: Northland Regional Council**

**On: Local government funding and financing Draft report - July 2019**

### **Introduction**

The Northland Regional Council (council) is grateful for the opportunity to comment on the draft report. This submission is made in the interests of promoting a sustainable environment and economy in Northland and with council's statutory functions and roles under the Local Government Act 2002 and other relevant legislation in mind.

Council supports the inquiry into local government funding and financing given the range of funding related issues councils and communities are facing currently and expect to face in the medium to long term. Climate change adaptation is probably the most significant example but there are numerous others that councils and constituent communities are grappling with.

Our submission generally follows the format of the draft report however, we do not respond to every question posed, finding or recommendation and have only commented where we can add value or have a different view from that of the commission.

### **Background**

The Northland region has a population of approximately 175,000<sup>1</sup> and a land area of 13,286 km<sup>2</sup> (about 1 person per 7.5ha). The region has challenging geography and climate and coupled with numerous remote rural communities, this can make infrastructure provision especially difficult. We also have significant deprivation issues, particularly in the mid and

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<sup>1</sup> Stats NZ estimate for 2018:

[http://nzdotstat.stats.govt.nz/wbos/Index.aspx?DataSetCode=TABLECODE7501&\\_ga=2.206554451.136673021.1544568307-1636453986.1499119935](http://nzdotstat.stats.govt.nz/wbos/Index.aspx?DataSetCode=TABLECODE7501&_ga=2.206554451.136673021.1544568307-1636453986.1499119935)

far north<sup>2</sup>, meaning affordability can be a constraint for communities in these areas. That said, our economic performance has improved dramatically in recent times and we have numerous opportunities for further improvement, including diversification of primary production and growth in commercial sectors.

## **Submission**

### **Trends in expenditure**

1. The findings of the Commission indicate that Local Government decision making is generally prudent and subject to a good level of discipline. We agree with finding 3.2 that local government faces higher price inflation than general consumers reflected in the difference between the Local Government Cost Index (LGCI) and Consumer Price Index (CPI), but this is not solely due to the specialised nature of spending on infrastructure alone. The report notes that regional councils face higher price pressures for operational expenditure due largely to increased spending on water and environmental management that is driven by government policy requirements. Due to the specialised nature of regional functions and higher level of qualifications required for regional councils, staff costs are comparatively higher compared with district councils.
2. We consider the LGCI a very useful tool for forecasting inflation for the sector and in response to Question 5.1 consider it appropriate to include an adjustment for anticipated price inflation when setting rates. The methodology for calculating the LGCI is reasonably robust and the difference between the LGCI and CPI are justified given the specialised functions of councils, which differ significantly from households. In response to Question 1 we would support disaggregating by council type as this would better reflect the differences in spending between regional and district councils. Our main concern is that whatever method is used it should not materially underestimate price increases, which would mean adjustments need to be made in annual plans.
3. The report indicates there are valid reasons for the difference in the LGCI and CPI – we would recommend more effort be put towards explaining this for the public as in our experience it is often queried.

### **Pressures on funding and financing**

4. We agree with the pressures on funding identified by the Commission in Section 4 and the findings in F4.1-4.14 – in particular we agree that government funding for co-governance / co-management has been ad hoc and inadequate and could put the durability of these arrangements at risk. Council is committed to supporting treaty

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<sup>2</sup> Ministry of Health: New Zealand Index of Deprivation Atlas:  
<http://healthspace.ac.nz/dataviews/report?reportId=261&viewId=96&geoReportId=1619&geold=15&geoSubstId>

settlement processes, but is concerned that this is an area where councils (and iwi) are expected to absorb ongoing costs into 'business as usual'. These costs are clearly not business as usual because they add an additional layer of administration which can include ongoing co-governance / co-management obligations and in many cases, development of management plans or similar documents required by settlement legislation which are often subject to Resource Management Act 1991 (RMA) processes and associated costs. While settlements can include one-off Crown funding for the establishment of boards or plan development, this is typically limited to a three-year period despite the fact these co-governance entities are permanent statutory bodies with ongoing administrative and operational costs. In response to Question 4.1, this is not business as usual for local government given co-governance bodies are provided by the Crown as redress to settle long-standing historical grievances of Māori, but are implemented by councils on the Crown's behalf. The Crown has an interest in ensuring durable and effective Treaty settlement outcomes, to ensure Māori are able to effectively participate in partnership with councils – we therefore consider a cost-sharing approach between councils and the Crown is more appropriate than the current approach of modest and one-off Crown contributions to costs. We support further analysis of the ongoing costs borne by councils in this area and see this as a key step in achieving better resourcing for settlement arrangements by central government.

5. Related to the above, we agree with the findings at F4.4 that unfunded mandates from central government creates cost pressures for local government. It is our experience that these are very real and not limited to new legislation – they also arise because of new or changing central government policy initiatives. An example is the National Policy Statement for Freshwater Management (NPS-FM). The NPS-FM imposes significant science, monitoring, reporting, consultation and process obligations, none of which are cheap to resource. The costs associated are compounded when the goal posts are shifted as has been the case with the NPS-FM (it was first gazetted in 2011, amended in 2014 and 2017 and further changes have recently been signalled for 2019). Other examples include National Planning Standards with the requirement to amend plan formats. The result of these changes is that much previous work is either no longer relevant or needs review – this can mean duplicated process and consultation costs. It is also makes forecasting / planning for implementation in LTP and Annual Plan processes very difficult.
6. Related to the above, a stable and reasonably certain policy environment provides councils with some confidence in forecasting the implementation costs associated with central government initiatives. This can be undermined by a lack of cross party support for central government policy which can result in reversals of previous policy / law changes by successive governments, all at significant cost to local government. Examples include the ongoing amendment of the RMA (it has been amended over 20 times since its inception in 1991) and Local Government Act (LGA) – with each

amendment these laws tend to get more complex and difficult to administer (for example, the RMA is about twice the size it was originally and is currently being overhauled again).

7. Central government should put more resource towards providing councils with the tools needed to implement national policy direction and other new legal requirements (such as the NPS Freshwater or planned NPS on indigenous biodiversity and climate change). This sort of initiative would reduce the need for each council to duplicate costs and would also reduce some of the legal / process challenges councils face in implementing central government policy (if central government models were used to support implementation, councils are much less likely to be challenged in the courts). A similar need is likely to arise with the reform of the 'three waters' regime which could impose significant costs through application of standards, monitoring and infrastructure upgrades – central government funding will be needed to implement the reforms and we recommend any such funding place emphasis on deprivation and communities ability to pay.
8. The cumulative effect of these pressures identified in Paragraphs 4-7 above is significant and growing and needs to be addressed at central government level with input from local government. We would recommend (where relevant) policy / initiatives be co-designed by central and local government as those who are expected to implement policy should have a say in its architecture to ensure it is a) achievable, b) effective and c) efficient and affordable. In our experience, implementation of government policy / legislation is a significant issue (and cost pressure) and therefore, we strongly agree with recommendation 6.10 ('partners in regulation protocol') which would go a long way towards addressing implementation of government policy / regulations and associated costs. Where it is demonstrated that it would be more effective / efficient for local government to act as 'regulatory agent' for central government, we consider this should be funded by central government by way of an agreed protocol and funding agreement / contract.

### **Improving decision making**

9. We agree with findings F5.4 and 5.5 that current reporting requirements and mandatory LTP content are overly complex, prescribe too much detail and simplification would be beneficial. While we have limited discretion over the content / format of the LTP, council has put a great deal of effort into participatory models as part of our engagement with community, especially in relation to the use of targeted rates. The communities in question were extremely responsive to this approach in our 2018 LTP process.
10. We agree with finding F5.10 that a clear strategic framework is important for guiding prioritisation and resource allocation. Council has developed such a strategic

framework for several core elements of our activities relating to freshwater, natural hazards and biodiversity / biosecurity.

11. In response to Question 5.1, we do not see any advantage in reducing the frequency of Long Term Plans to five years – it is unlikely that a reduced frequency would necessarily result in a commensurate cost saving. A reduced frequency would also mean more amendments through annual plans between LTP years and therefore has the potential to actually increase costs. There would also be a poor fit with the triennial election cycle with potential for the LTP of a previous council effectively binding a newly elected council unless they revisit proposals through an annual plan process (thereby reducing any cost saving). We recommend effort be put towards streamlining the LTP procedure and reporting and stripping out unnecessary content, as this is far more likely to result in cost savings than reducing frequency.

### **Future funding and financing arrangements**

12. We agree with finding F6.3 that the local government funding system is under pressure from tourism, climate change adaptation and unfunded mandates from central government – in our view property based rates are not able to deal with these pressures effectively. As noted above, we strongly support the recommendation at F6.10 but this would only serve to address part of the problem – namely the issues related to unfunded central government mandates and associated implementation. This should be complemented by shared and /or more devolved funding arrangements, particularly where there are national benefits likely.

13. We support recommendation 6.8 that government should provide funding from the international visitor levy for tourist ‘hotspots’ as cost recovery from tourists through user charges is not adequate to cover all operating costs. For the same reasons we support enabling local authorities to introduce accommodation levies.

14. We doubt recommendation 6.4 to provide ‘incentive’ payments to territorial authorities based on the quantum of new building work in their jurisdiction would effectively address infrastructure funding issues. The issue of the lag between infrastructure and development would remain and debt would still be required to fund the actual build. There are also issues about how this would be calculated as the value of consents does not necessarily relate directly to infrastructure requirements. We consider use of SPV’s would be a better option for funding large infrastructure investment and / or use of the local government funding agency to finance infrastructure projects.

15. We believe there is a case for more central government funding transfers to councils - noting NZ is highly centralised fiscally compared with other comparative countries (the central government share of public spending is 88%). This means councils are more reliant on central government discretion to respond to community needs and allocation

can be inefficient and / or inaccurate. We see real gains across all well-beings if NZ were to move to a more decentralised fiscal model. We would caution though that any such move should not necessarily solely use contestable funds as councils are not equal in their ability to 'compete' for central government funding and in some cases the first applicants may exhaust funding in areas that may not provide maximum benefit. Such funding, if short term in nature, can also lack the ongoing certainty / stability and in the medium to long term councils require for significant medium / long term investment. We'd suggest a permanent central government funding stream with allocation based on objective / evidence based criterion.

## **Equity and affordability**

16. Council disagrees with the Commission's recommendation that 'beneficiary pays' principle should be the primary consideration in setting rates. Determining how to equitably share the costs of these services requires a subjective judgement and council considers that decisions of this nature should be made by elected members, rather than through greater prescription in the LGA. Also, we do not consider the Commission makes a case as to why giving greater weight to 'benefits received' than 'affordability' would lead to a superior economic or community outcome. We have been moving toward greater participatory models in funding decisions – the 2018 LTP has been a case in point where feedback on funding proposals was extremely encouraging with a significant level of support for approaches used to fund activity taking into account both beneficiary and affordability principles. Affordability is of particular concern in parts of Northland and we have used the tools available to allocate costs accordingly – a recent example is in our 2018 LTP where region-wide ratepayers contributed 70% of the cost of proposed new flood protection infrastructure with 30% funded by 'beneficiaries' (this was explicitly supported by the majority of submissions from both the regional and local community). We would oppose any move to undermine our ability to take such an approach as in our view an assessment of benefits is appropriate but can only *inform* decision making rather than *allocate* costs. If the focus was primarily on 'benefits received' with affordability as a secondary consideration, we would likely face some serious constraints on delivering community outcomes. We also note that the tests in the current Local Government Act (s101(3)a) require an assessment of the beneficiaries and affordability (s101(3)b) – we make these considerations as transparent as possible in consultation on rates and we see no case for a change of the nature recommended by the commission and in fact see potential for significant impacts on communities facing affordability issues. It can also be difficult in some cases to accurately define 'beneficiaries' and / or quantify benefits for purposes of allocating costs – we do however remain of the view that this should be actively considered as far as practicable.
17. Council opposes the removal of the 30% cap on general charges as we see real risk that this could be over-used by councils facing funding pressures or infrastructure upgrades / spend to the disadvantage of ratepayers on fixed or low incomes. This is of

particular concern where infrastructure is inadequate in areas of comparatively high deprivation.

18. While we do not frequently use rates differentials, we do not see a need to remove this mechanism from the Local Government Rating Act, noting this could cause significant problems / readjustment in many jurisdictions. Differentials are useful for recognising the different scale of benefit received in some cases – an example is flood mitigation infrastructure where we apply a differential between commercial and residential uses – differentials can also be used to reflect the level of protection received from such an asset. So we see the ability to differentiate in this way as useful. We strongly caution the removal of UAGC and differentials given it is unlikely targeted rates and user charges are an acceptable or affordable alternative in all cases and would disadvantage lower socio-economic communities. We also note targeted rates can be fraught at higher 'resolution' as they often rely on maps to identify 'beneficiaries'.
19. To summarise the points above, we see the removal of both the UAGC and differentials in combination with greater emphasis on beneficiary pays (by way of targeted rates and user charges) would compound to severely disadvantage lower income communities. We recognise the role government plays in re-distribution of funds, but requiring local government to expressly consider this when determining 'ability to pay' when setting rates is not practical or workable, especially given local government decisions often relate to completely different activity classes and government re-distribution policy often changes at short notice.
20. We agree with recommendation 7.5 that an alternative to the rates rebate scheme should be developed between central and local government given the current scheme provides minimal assistance (a maximum of \$12/week). A national rates postponement scheme funded and administered by central government would be supported by council if based on the criteria in recommendation 7.5, provided the regime provides greater benefit for recipients and efficiency improves.

### **Adapting to climate change**

21. Climate change presents a significant future funding challenge, which is compounded by the fact that there is so much uncertainty over the rate / nature of changes and spatial variation in the level of risk and ability to pay. Northland has an extensive coastline (about 3200km), with numerous settlements on the coast – sea level rise of 1.5m is expected to incur \$370 million for infrastructure replacement costs (not to mention other factors such as increased flood / storm damage, pest impacts and drought). We also have challenging geography and climate, meaning infrastructure can be very vulnerable to the effects of storm damage that will be exacerbated by climate change. This is a particular concern where the cost of infrastructure provision / maintenance is funded

from a small ratepayer base (i.e., an extensive rural road network is required to serve numerous small Northland communities with comparatively high maintenance costs due to climate and geological conditions – roading therefore consumes a large percentage of district council budgets). Repeated storm damage is an ongoing issue in Northland given mobile clays (causing slips) and funding is ‘lumpy’ in nature and therefore difficult to plan for.

22. There is likely to be some reluctance by ratepayers to fund responses to climate change (such as future proofing infrastructure), particularly if the pay-off is uncertain or far into the future. Local government is also likely to face increased costs of identifying coastal / flood hazard areas, increasing demand for ‘protection’ and procedural costs associated with planning proposals that place restrictions on property rights.
23. We therefore support the establishment of centres of knowledge for both climate change science / data and planning / risk management and legal issues (Recommendation 8.1). Councils have often been left to grapple with issues individually with limited resource / guidance from central government resulting in duplication, inconsistent approaches and heightened risk of legal challenge. Given the issues raised in Paragraphs 21 and 22, we strongly support Recommendations 8.5 and 8.6 to provide central government resilience funding and greater support from NZTA for addressing climate change impacts on local roads. Again we caution use of contestable funds for this and support use of a business plan model that considers risks, viability of the road network and rating capacity / ability to pay.

### **Other matters**

24. **A tax on vacant land:** while this may go some way towards addressing the ‘land banking’ issue, we have reservations of how this could be implemented. Caution would be needed to ensure it is sufficiently targeted at ‘under-utilised’ land that has been explicitly identified for urban growth / intensification so it does not unfairly penalise land owners in areas not planned for growth. It may also be difficult to administer and define for rating / tax purposes given there are likely to be many variable circumstances at play (e.g. infrastructure provision, procedural delays or environmental issues may be the impediment to development rather than a desire to ‘land bank’). We strongly recommend further detailed analysis on the feasibility of this mechanism before any decision is made.
25. **Question 8.1 What legal options for landowners to assume climate change risks:**  
In our view this is not the question to be asking. Central government policy is to ‘avoid’ increase in risk<sup>3</sup> and section 6h of the Resource Management Act directs (as a matter of national importance) that significant risks from natural hazard are to be managed.

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<sup>3</sup> Policy 25, New Zealand Coastal Policy Statement 2010

Devolving risk to landowners maybe 'convenient' for councils but will not address the problem, nor is it an appropriate response. We note the Ministry for the Environment Guidance on Coastal hazards 2017 sets out good practice for consultation with communities on adaptation (e.g., the dynamic adaptive pathway planning approach) – we see this as a far more preferable and responsible approach to managing climate change risks. We also note many land uses do not require resource consent and therefore there is no ability to place conditions relating acceptance of risk (voluntarily or otherwise).

26. **Rates recovery:** While we understand mechanisms for rating Māori freehold land are not within the inquiry scope, the recovery of rates from Māori land is an ongoing financing issue for council. For example, in the 2017/18 financial year the Northland Regional Council struck rates amounting to \$685,000 (GST incl.) on Māori Freehold Land in the Far North District. Of this amount, we collected \$216,000, representing a collection rate of 31.5%. The total outstanding rate arrears on Māori freehold land in the Far North District at the start of the 2017/2018 financial year totalled \$2.5m. Adding to these cashflow concerns, is the fact that council can only claim the GST back on unpaid rates once they are written off after the six-year statutory timeframe. This essentially means council's rate strike must cover this GST liability. We suggest the commission investigate the potential implications of removing the GST from rates and any likely cost / benefits for local government.
27. There are jurisdictions with a large proportion of land deemed non-rateable (in many cases this includes Crown land such as national parks). We believe there is a case for rating some types of Crown land, especially where there is a benefit from local government spend. An alternative would be some form of compensation to councils faced with this issue.
28. The inability to recover rates from Māori and Crown land can create significant funding issues for some councils, particularly those with deprivation issues. This suggests a need for some kind of "equalisation funding" from central government for councils that represent low socio-economic communities and are faced with these problems.

## Conclusion

We thank the commission for the opportunity to provide feedback on the issues paper and look forward to the draft report – in closing we suggest the upcoming draft report take a more in-depth analysis of the operational expenditure, capital expenditure and revenue sources by council 'type' (unitary, regional, district and city) and sector group (metro, provincial and rural). This is likely to reveal some additional and perhaps more nuanced funding / financing themes or patterns to emerge that would inform the debate.

Signed on behalf of Northland Regional Council

A handwritten signature in black ink, appearing to read 'M Nicolson', with a large, sweeping flourish above the name and a horizontal line extending to the right.

Malcolm Nicolson (Chief Executive Officer)

Dated 21 August 2019