

# Submission relating to the New Zealand Productivity Commission Inquiry into Local Government Funding and Financing

Local government funding and financing Issues paper - November 2018

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## Executive Summary

This submission is in response to the Commission's invitation to welcome 'information and comment on all issues that participants consider relevant to the inquiry's terms of reference'. It is presented in the hope that it may add to the gathering of ideas, opinions, evidence and information to ensure that this inquiry is well-informed and relevant.

In order to be prepared for this submission, the terms of reference for this inquiry and the number of issues and questions in this inquiry's Issues paper have been read, a significant study of the Local Government Act 2002 (LGA) has been undertaken, and many other documents have been consulted.

Of importance to this submission is The Funding Local Government: Executive Summary, Local Government Rates Inquiry, which was released in 2007. Then during April 2010, Hon Rodney Hyde wrote in the document 'Decisions for better transparency, accountability and financial management of local government, Local Government Act 2002 Amendment Bill'; "The Local Government Act 2002 is being amended to enable ratepayers to exert greater influence on the work of their councils."

Approx. 11 years after the 2007 inquiry, this inquiry has been set up to investigate the financial problems and cost pressures (and the subsequent rate increases) that exist in local government. There seems to be a similarity between these two inquiries, suggesting that little has changed in these 11 years. There is now the question of whether many of these pressures and problems are still being caused by a lack of the discipline of self-management by elected members, and a lack of interest in the people of the communities. Add to this is the possibility that elected members are not giving due consideration to their oath of office.

When an elected member of a local authority takes their oath of office, they do so at their own volition. According to the Cambridge Dictionary online, 'oath' means "a serious promise that you will tell the truth or that you will do what you have said"<sup>1</sup>

It would be expected that an elected member would be aware of what they were doing, and that they were making a serious promise to perform the duties as set out in the LGA. If an elected member did not do as they promised to do and claimed that they did not know and/or did not understand what was in the LGA, they would still be accountable for their actions.

Everything that councils do must be able to be measured against the actual and the intent of the LGA, and not against someone's personal interpretation of an isolated section. If a council doesn't 'match up', (i.e. accountability), then it needs to be remedied.

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<sup>1</sup> <https://dictionary.cambridge.org/dictionary/english/oath>

The discussion section of this submission starts from the position of the findings and recommendations of the Local Government Rates Inquiry (2007) and the statement from Hon Rodney Hyde 2010, and considers several sections of the LGA. The discussion on many of these sections have examples from a local authority, that in my opinion, illustrate the concerns expressed in this submission.

Also, in the document by Hon Rodney Hyde is the statement that the Local Government Act is being amended... these reforms will achieve plain English financial reporting, so that ratepayers can understand what they are paying for, and how. Given that consultation documents for 10-year plans are difficult to understand, then why is the Act failing to deliver its purpose for ratepayers? The Auditor General audits the long-term plans, but who is it who checks to see that consultation documents meet a standard of being able to be read and understood by members of a community?

Two questions from the recent Quality of Life survey have been graphed and discussed, and as a result of this discussion, then it appears that the either the LGA legislation is not working, or elected members of councils are not choosing to seek to work out their oath of office. The data indicates that Hamilton is the worst performing city and the city with the greatest change away from the requirements of the LGA over the past two years. If the reason for this dramatic change were to be investigated by this inquiry, then perhaps it could lead to an answer to the cost pressure and rate increase problem.

The legislative requirement in the LGA for an understanding of democratic governance was discussed and found wanting. The recommendation to national government would be to establish a standard meaning for this term and the process whereby it is worked out in all local authorities. If this were to be used by local authorities in their duty under the LGA, there would likely be an 'improvement' in the data for the two questions relating to a local authority in the Quality of Life survey.

Communities need protection through better 'policing' on how councils operate. People must be assured of better processes to keep elected members accountable to their oath of office. It is suggested that if this was to occur, then cost pressures on local government would decrease, and ratepayers would end up paying for what they actually want.

Elected members of councils must honour their oath of office, their duty of self-management, and the discipline of the democratic governance process that is based on principles that include:

- Facilitating accountability of elected members to the members of the community,
- Interacting with and consulting with communities before and during the decision-making process,
- Listening to the community with an open mind and giving due consideration to these opinions when making decisions,
- Enforcing the requirement of democratic local decision-making and action by, and on behalf of, communities, and
- Making decisions that are in the interest of the whole community (social, economic, etc).

After all, these are legislative rights of New Zealand's communities.

## Discussion

- 1) During August 2007 the paper Funding Local Government: Executive Summary, Local Government Rates Inquiry<sup>2</sup> was released. [The understanding is that this report is known as 'The Shand Inquiry'].

Other than a principle concern over rates increases and many recommendations, is the paragraph in the Executive summary:

“3. Overall, the Panel sees several significant problems, both in the financial decision-making processes in local government and the financial decisions that are being made. Prime responsibility for addressing these issues rests with local government itself, and many of the remedies lie in self-management including the adoption of good practices, and the discipline of the democratic process including meaningful consultation with citizens.”

In the context of this inquiry, two points need a strong focus:

**The responsibility for addressing the issue of financial decision-making rests with local government itself.**

**Many of the remedies lie in self-management... and the discipline of the democratic process including consultation with citizens.**

- 2) On the 29 April 2010, Hon Rodney Hide released a document titled “Decisions for better transparency, accountability and financial management of local government Local Government Act 2002 Amendment Bill”<sup>3</sup>

The first paragraph to that document reads:

“The Local Government Act 2002 is being amended to enable ratepayers to exert greater influence on the work of their councils.”

**Given that the principal work of elected members of council is decision-making, then the LGA was amended to enable the public to have greater influence on the decisions their Council make.**

- 3) In the document “Better Local Government”<sup>4</sup>, under the heading “Consultation, decision making and long-term/annual plans”

“The Amendment Act makes the following changes to the Local Government Act 2002 (LGA):

- provides for new significance and engagement policies, to provide clarity about how and when communities can expect to be engaged in decisions about different matters;
- amends the special consultative procedure, so it accommodates new ways for communicating and consulting with the public; and

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<sup>2</sup>

[http://ndhadeliver.natlib.govt.nz/ArcAggregator//arcView/resource/IE12126512//http://www.dia.govt.nz/Pubforms.nsf/URL/RatesInquiryFullReport.pdf/\\$file/RatesInquiryFullReport.pdf](http://ndhadeliver.natlib.govt.nz/ArcAggregator//arcView/resource/IE12126512//http://www.dia.govt.nz/Pubforms.nsf/URL/RatesInquiryFullReport.pdf/$file/RatesInquiryFullReport.pdf) (downloaded 1 February 2019)

<sup>3</sup> <http://www.baybuzz.co.nz/wp-content/uploads/2010/08/HideLGA.pdf> (accessed 2 February 2019)

<sup>4</sup> <https://www.dia.govt.nz/better-local-government> (accessed 31 January 2019)

- repeals most requirements to use the special consultative procedure when consulting under the Local Government Act 2002. (Consultation would still be required, though, in accordance with the principles of consultation in the Act.)”

**Consultation with the public should be in accordance with the principles of consultation in the Act.**

- 4) In order to meet the requirements of the LGA, the Act must be interpreted by rigorous investigation rules, e.g.:
  - a) Every interpretation of any part must be in keeping with the purpose of the Act, and the purpose of Local Government.
  - b) Any interpretation of the meaning of a word or combination of words must be in accordance with a reliable dictionary.
  - c) As a result of reading through the Act, there should be no conflict of interpretation and/or understanding between any of the sections.
  - d) The use of the conjunction ‘and’ in this Act means that the legislative requirements of the subsections so linked together using this word must occur concurrently (i.e. together at the same time). No one subsection or part thereof can be taken out of context with the rest.

**A rigorous investigation must be done by the local authority in order to ensure that elected members know the requirements and intent of the LGA.**

- 5) The purpose of the LGA is given as:

The purpose of this Act is to provide for democratic and effective local government that recognises the diversity of New Zealand communities; and, to that end, this Act—

  - (a) states the purpose of local government; and
  - (b) provides a framework and powers for local authorities to make decisions...; and
  - (c) promotes the accountability of local authorities to their communities; and
  - (d) provides for local authorities to play a broad role in meeting the current and future needs of their communities...; (LGA section 3)

**Everything in the LGA must be interpreted and worked out by the local authorities in the context of this purpose.**

- 6) The purpose of local government is given as:
  - (a) to enable democratic local decision-making and action by, and on behalf of, communities; and
  - (b) to meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses.

The term ‘on behalf of’ is defined by the Cambridge Dictionary online as:

“done for another person’s benefit or support, or because you are representing the interests of that person”<sup>5</sup>

**Therefore, the purpose of local government is to enable democratic decision-making by the community and for the community’s benefit or support. Any action following a decision is for the community’s benefit or support.**

7) The oath of office for an elected member is:

“I, [full name of mayor, councillor or board member], declare that I will faithfully and impartially, and according to the best of my skill and judgment, execute and perform, in the best interests of [name of region, district, city, local or community board], the powers, authorities, and duties vested in or imposed upon me as a member of the [name of local authority] by virtue of the LGA 2002, the Local Government Official Information and Meetings Act 1987 (LGOIMA), or any other Act.”

Every elected member of a local authority is under oath to make their decisions in accordance with the intent of the LGA, and therefore every member who is involved in making a decision (even a decision to not make a decision) must make that decision knowing that what is done is for the community’s benefit or support, not for or from their own interests.

**A member’s oath of office requires them to make decisions in the best interests of their territory and does not allow them to affect the making of a decision by their own interests; as this is not allowed for by the definition of ‘on behalf of’, included in the purpose of local government.**

8) One of the purposes of the LGA is that it “promotes the accountability of local authorities to their communities” (LGA section 3(c)).

The definition for ‘accountability’ is “the fact of being responsible for what you do and able to give a satisfactory reason for it, or the degree to which this happens”<sup>6</sup>.

An authority will probably have this accountability written into a code of conduct policy. For example, Hamilton City Council’s Code of Conduct Policy contains Section: 3.2

Accountability:

Elected Members will: “comply with all legislative requirements applying to their role, abide by this Code of Conduct, and act in accordance with the trust placed in them by the public to be responsible for their decisions and actions, and be prepared to justify these.”<sup>7</sup>

**Every elected member of a local authority is under oath to be responsible for their decision, be able to account for their decision, and be able to give a satisfactory reason for that decision - i.e. accountability.**

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<sup>5</sup> <https://dictionary.cambridge.org/dictionary/english/on-behalf-of-someone>

<sup>6</sup> <https://dictionary.cambridge.org/dictionary/english/accountability>

<sup>7</sup> <https://www.hamilton.govt.nz/our-council/policies-bylaws->

legislation/policies/Documents/Code%20of%20Conduct%20for%20Elected%20Members\_Oct2018.pdf (p.4), accessed 11 February 2018)

**Therefore, a community has the right to hold elected members accountable for their conduct.**

Hamilton City Council's Code of Conduct does however contain another section that is significant to this issue of accountability.

**"6.2 Complaints Process**

Only an Elected Member, external appointee to a Council Committee or the Chief Executive (either for him/herself or on behalf of an employee), who believes that the Code has been breached by the behaviour or action of a member, may make a complaint to that effect"<sup>8</sup>.

**Members of the public have been excluded from making a complaint through this policy.**

**When a council chooses to make accountability difficult for the community, then what is the effect on the intent of the LGA, the rights of the community, and cost pressure and rates?**

- 9) A further significant part of the LGA which seems to have been forgotten by many local authorities is the legislative requirement in subsection 39(a) under the heading 'Governance and management/governance principles':

"A local authority must act in accordance with the following principles in relation to its governance:

- (a) a local authority should ensure that the role of democratic governance of the community, and the expected conduct of elected members, is clear and understood by elected members and the community; "

If it cannot be demonstrated that this piece of legislation has and continues to be carried out by every local authority, then there will be little control over the problems mentioned in the Shand Inquiry, some amendments to the LGA will be ineffective, and the cost pressure issues mentioned in this Inquiry's terms of reference are likely to continue unabated.

**The role of democratic governance of the community and the expected conduct of elected members must be known and understood by elected members and members of the community.**

**This is a both a statutory requirement and a legislative right for members of the community.**

- 10) Efforts have been made to determine the extent to which the legislative requirement of subsection 39(a) of the LGA has been carried out.
- a) Local inquiries from elected members of council indicate a lack of understanding of this term and no professional development related to this term.

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<sup>8</sup> [https://www.hamilton.govt.nz/our-council/policies-by-laws-legislation/policies/Documents/Code%20of%20Conduct%20for%20Elected%20Members\\_Oct2018.pdf](https://www.hamilton.govt.nz/our-council/policies-by-laws-legislation/policies/Documents/Code%20of%20Conduct%20for%20Elected%20Members_Oct2018.pdf) (p.12), accessed 11 February 2018)

- b) An inquiry to Local Government New Zealand (LGNZ) resulted in an answer that pointed to internet links which did not answer my inquiry.
- c) Inquiries to friends (i.e. members of a community) also indicated a lack of understanding.
- d) Since the LGA was introduced some 16 years ago, I do not remember any form of communication from our local authority regarding democratic governance.

**Legislation requires that all members of a community (i.e. effectively all New Zealanders) have the right to understand what this term means and see it in action in their respective councils.**

- 11) **Given the legislative requirement regarding democratic governance, it must be accepted that the role of and the conduct of elected members according to these governance principles is critical in meeting the points mentioned in the Shand Inquiry.**
- 12) **Without an understanding of democratic governance, members of the community have no benchmark with which to compare the conduct and role of elected members and therefore cannot hold elected members accountable.**
- 13) Applying investigation rules to the LGA will provide an understanding of the principles of democratic governance. An investigation into the term 'democratic governance' suggests a form of governance radically different to the autocratic governance that can easily occur in local government. Autocratic governance can be identified when decisions are based on what an elected member wants, usually the mayor and/or a strong lobby group within the elected members. An investigation into this form of governance would most likely find that the elected member(s) has chosen to ignore the statutory requirements of the LGA, and therefore breach their oath of office.

**Decisions that are not made based on the principles of democratic governance are not likely to be in the best interests of the community, the community is not likely to have any influence on the decisions, and there are likely to be significant cost pressures resulting in significant rate increases.**

- 14) Democratic governance also includes the mandatory need for community consultation on a matter which is deemed to have a high significance. The consultation that a council undertakes in relation to any decision must be undertaken in accordance with the principle that the views presented to the local authority should be received by the local authority with an **open mind**, and these views should be **given due consideration** by the local authority in making a decision (LGA section 82(1)(e)).

An 'open mind' has the following definition: "to wait until you know all the facts before forming an opinion or making a judgment."<sup>9</sup>

The collocation 'given due consideration' has a reference in the online Legal Dictionary-The Free Dictionary to the word 'deliberate'. The word 'deliberate' in the same dictionary is

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<sup>9</sup> <https://dictionary.cambridge.org/dictionary/english/open-mind> (accessed 3 February 2019)

given the definition: “Willful; purposeful; determined after thoughtful evaluation of all relevant factors; dispassionate. To act with a particular intent, which is derived from a careful consideration of factors that influence the choice to be made”<sup>10</sup>.

**Therefore, every elected member must remove from their mind any preconceived interest, bias or opinion before and during consultation with the public, and they must make a deliberate effort to make a thoughtful evaluation and consideration of all relevant factors before making an evaluation of the public response. That evaluation then is their decision.**

- 15) On 18 July 2018 the Hon Grant Robertson, Minister of Finance released the terms of reference<sup>11</sup> for the New Zealand Productivity Commission Inquiry into Local Government Funding and Financing (which is the object of this submission).

The last paragraph of the Context contains

“This mix of factors — rates increases, limits on borrowing, and increased expenditure demands, particularly for infrastructure — creates the need for an independent inquiry into cost pressures, decision making and affordability.”

The acceptance that this inquiry has a focus on solving the cost problem is an acceptance that any change to local government procedures following the Shand Inquiry and/or an amendment to the LGA **does not seem to have been effective in solving cost pressures and escalating rate increases.**

- 16) The Terms of Reference document and the questions in the Issue’s paper for this inquiry suggest the thought that this inquiry is primarily concerned about solving the consequences of the cost problem, rather than considering the problem itself – i.e. to use the metaphor, it is more about putting ambulance and rescue facilities at the bottom of the cliff, rather than fixing the fence at the top.

**If the recommendations of the Shand Inquiry and the amendments to the Local Government Act 2002 had been effective, then why are rates increases still excessive, and therefore the necessity for this inquiry?**

- 17) A possible answer to the question of why rates increases are still excessive, lies in the inability of councils to address the points mentioned in the Shand Inquiry – i.e. many of the remedies lie in self-management... and the discipline of the democratic process including consultation with citizens.

Given that neither external policy nor regulatory settings should make any significant cost increase without ratepayers understanding why these increases are necessary, then why do cost increases seem to be escalating out of control?

**Could it be that elected members of council are pursuing their own visions or wants, and not considering the implications of their oath of office?**

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<sup>10</sup> <https://legal-dictionary.thefreedictionary.com/deliberate>

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[https://www.productivity.govt.nz/sites/default/files/Terms%20of%20Reference\\_Local%20government%20funding%20and%20financing.pdf](https://www.productivity.govt.nz/sites/default/files/Terms%20of%20Reference_Local%20government%20funding%20and%20financing.pdf) (accessed 2 February 2019)

- 18) Democratic governance would also suggest that the vision statement for a territory would be based on what the community indicates as their priority, and it probably would include some reference to the community. For example, the vision statement from the Hamilton City Council website (downloaded 5 January 2018 but no longer available) was “The Hamilton Plan is our vision for Hamilton's future and it's a plan that will build a stronger economy and a more attractive city for families.”

The following is an extract from Hamilton City Council's media release (no date).

Mayor and Councillors sworn in<sup>12</sup>

“Mayor Andrew King shared his vision for the city "to encourage growth within Hamilton, reduce the red tape and encourage business. On a platform of truth, transparency and accountability, our city will prosper" said Mayor King.”

When a mayor's public statement of their vision is radically different from the published council's vision, then it is likely that any democratic governance will be adversely affected. It is suggested that the council's vision was focused on families and communities, but the mayor's vision focuses on growth and encourage business, and ignores families.

**A territory's vision statement should be based on what the community wants, and every elected member should then be focussed on that vision, not their own wants.**

- 19) The role of democratic governance implies a compliance with the structure and processes of the LGA.

When the LGA is interpreted from the intent of the LGA, the structure of the LGA with its processes provides a solid platform for democratic governance. If the intent of the LGA is put to one side and interpretations made on parts of the LGA in isolation, then democratic governance will be eroded.

For example, the reference to “reduce the red tape” by Hamilton's mayor should be of concern. Given that the Cambridge Dictionary online gives a definition of ‘red tape’<sup>13</sup> as “official rules and processes that seem unnecessary and delay results”, is the Mayor using the term ‘red tape’ to mean the legislative processes stated in the LGA – those processes he had just given his word to uphold? If he is not using the term ‘red tape’ to refer to the legislative processes stated in the LGA, then what was he referring to?

**Every community has the right to expect all elected members to be accountable and explain what they mean by statements that they make – especially when speaking from their elected position.**

- 20) Given the intent of this inquiry is to address the issues of increasing cost pressures, then how does the threat of increasing rates affect the community?

In Hamilton, the increasing concern over the mayor's proposal for a large rate increase was picked up the Hamilton News prior to a by-election for one of the Wards. All 14 of those candidates contacted by the Hamilton News identify aspects of what the council was

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<sup>12</sup> <http://www.hamilton.govt.nz/our-council/news/Pages/default.aspx?newsitem=5463> (accessed 2 February 2019)

<sup>13</sup> <https://dictionary.cambridge.org/dictionary/english/red-tape>

currently doing, and propose as part of their campaign information, the need for change<sup>14</sup>. One of the candidates placed an 'advertisement' with the heading "Crippling rates increases must be stopped"<sup>15</sup>

**If the issues of increasing cost pressures are not addressed by a local authority and instead the local authority expects ratepayers to pick up the increased costs, then the quality of life of ratepayers can be adversely affected.**

- 21) Even though an elected member may stand for and be voted into local government in a particular Ward, they must make decisions in the best interest of the whole of their local authority, and not just for a part of the territory. A candidate's guide to local authority elections states:

"Putting the needs of the district, city or region first

Elected members must act in the interest of the total district, city, region or community in which they have been elected, not just a particular ward or constituency. This is reinforced by the oath that you will have to agree to shortly after being elected:"<sup>16</sup>

An article by MP David Bennett<sup>17</sup> suggested that Hamilton's council is biased towards spending large amounts of money in the west of Hamilton, thus favouring one part of the city.

**Elected members must act in the interest of the whole territory, not for a particular part of that territory.**

- 22) **Long-term plans should be given out to the community in a manner that makes it easy for residents to understand.**

Hamilton's 10-year plan was put out for discussion. Several expensive projects were outlined for the first time, together, and without a clear indication as to how each individually would affect rate increases.

It appears that a few amendments from submissions were accommodated by council, but major projects went ahead.

The following copy of a mailbox flyer distributed some months ago indicates a summary of the public responses:

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<sup>14</sup> Hamilton City Council – East Ward by-election candidates, Hamilton News, Friday, January 26, 2018, p6-7

<sup>15</sup> Hamilton News, Friday, January 26, 2018, p7

<sup>16</sup> Local Government New Zealand, A candidate's guide to local authority elections, p. 8 (accessed 2 February 2019)

<sup>17</sup> "No gain for city's east...", Hamilton Press November 22, 2017, p1.

## Did Hamilton City Council take notice of your responses to the 10-Year Plan Consultation?

Question 1: Select one of six options - all increase Rates by 24% - 26%

Option 1, 2, 3 or 4 Selected      **No** UAGC      = **71%**

**820** written responses      **"No to all 6 options"**      = **81%**

Question 2: Do you have any ideas about how the Council should change the way the rates are calculated?

**770** written responses say proposed Rate increases are outrageous and unaffordable

Question 3: Do you have any ideas about changes the Council can make to increase revenue to cover everyday costs?

**1038** written responses saying:-

Stop spending on "nice to haves" "Essentials only"

Question 8: Is investment of \$70.7 million in the nine community projects the right option?

**1664** responses      **NO = 86%**      **YES = 14%**

Garden Place NO = 83%    Proposed Theatre NO = 65%    Central City Park NO = 56%

**When a community is consulted over a proposed plan and gives feedback via submissions that they do not want expensive projects, then the LGA requires from elected members a deliberate effort to make a thoughtful evaluation and consideration of all relevant factors of the public response before making an evaluation and decision. Elected members are also accountable for that decision and therefore must be able to explain their decision.**

- 23) Towards the end of 2018, approximately 2 years following the last triennial local government elections, the results of the Quality of Life survey 2018<sup>18</sup> were released. This survey is a collaborative local government research project and seeks to measure residents' perceptions across a range of measures that impact on New Zealanders' quality of life. The introduction to the report states that the results from this survey are used by participating councils to help inform their policy and plan responses to population growth and change.

Two questions (Q18 and Q19) in this survey specifically target 'Council Decision Making'.

**Given that this survey covers a range of measures that impact on New Zealanders' quality of life, then the results to these two questions must impact on the quality of life of all communities in the cities covered in the inquiry, and to some degree all communities in New Zealand. A 'poor' response to these two questions means quality of life is impacted negatively.**

**These two questions also underpin the democratic decision-making process of the LGA. A 'poor' response to these two questions is a clear indicator that elected members are not keeping their oath of office.**

- 24) For both Q18 and Q19, the 2018 Quality of Life survey report considered the number of respondents who 'Overall, I have confidence that the Council makes decisions that are in the

<sup>18</sup> Nielsen. (2018). Quality of Life survey 2018: Topline report. A report prepared on behalf of Auckland Council, Wellington City Council, Christchurch City Council, and Dunedin City Council. Wellington, New Zealand: (<http://www.qualityoflifeproject.govt.nz/pdfs/Quality-of-Life-2018.pdf>, accessed 3 February 2019)

best interests of my' city or area (Q18), and 'how much influence do you feel the public has on the decisions the Council makes' (Q19).

In this discussion, the focus on the data was considered from the **opposite viewpoint**, i.e. the number of respondents who **do not agree** that they have confidence that their local council makes decisions in the best interests of their city or area, and the number of respondents who **do not feel** the public has at least some influence on the decisions the Council makes.

**With this focus in this submission, the higher the number of respondents to these questions is then a correlation to the number of people whose quality of life is impacted negatively by council decision-making and whose rights under the LGA are being denied.** This negative impact will further impact negatively on their economic situation through rates gathered by councils whose cost pressures are resulting from poor or inappropriate decision-making.

25) A comparison of the 2018 data was made to the data for the corresponding questions in the 2016 Quality of life survey report<sup>19</sup> and the results of the questions in both surveys were tabulated and compared. This comparison gives an indication of the trend over the past two years, approximately the time that current elected members of local government have been in office. These results were then considered against the intent of the LGA, the implications of that consideration, and the cost pressures on council and therefore the ratepayer.

26) **Question 18 of the 2018 Quality of Life survey.**

How much do you agree or disagree with the following statement?

"Overall, I have confidence that the Council makes decisions that are in the best interests of my city".

Responses are solicited on a 1 – 5 scale representing Strongly disagree, Disagree, Neither agree nor disagree, Agree, and Strongly agree

The survey presents data for the five points on the scale and sums two extra columns – Net Agree (data from 4 & 5) and Net Disagree (data from 1 & 2).

The question in this discussion considers the number of respondents who **do not agree** that they have confidence that their local council makes decisions in the best interests of their city or area. This data is the sum of columns 1, 2 & 3 in the Quality of life survey, (i.e. it excludes the number of respondents that either agree or strongly agree to the survey question).

A similar approach was taken to extract data for the 2016 survey, then the data from both the 2016 and 2018 surveys were tabulated together and a third column added. This column shows the increase in respondents over the two-year period who **do not agree** that they have confidence that their local council makes decisions in the best interests of their city or area.

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<sup>19</sup> Colmar Brunton. (2016). Quality of Life survey 2016: Topline report. A report prepared on behalf of Auckland Council, Wellington City Council, Christchurch City Council, and Dunedin City Council  
[http://www.qualityoflifeproject.govt.nz/pdfs/Quality\\_of\\_Life\\_2016.pdf](http://www.qualityoflifeproject.govt.nz/pdfs/Quality_of_Life_2016.pdf) (accessed 3 February 2019)

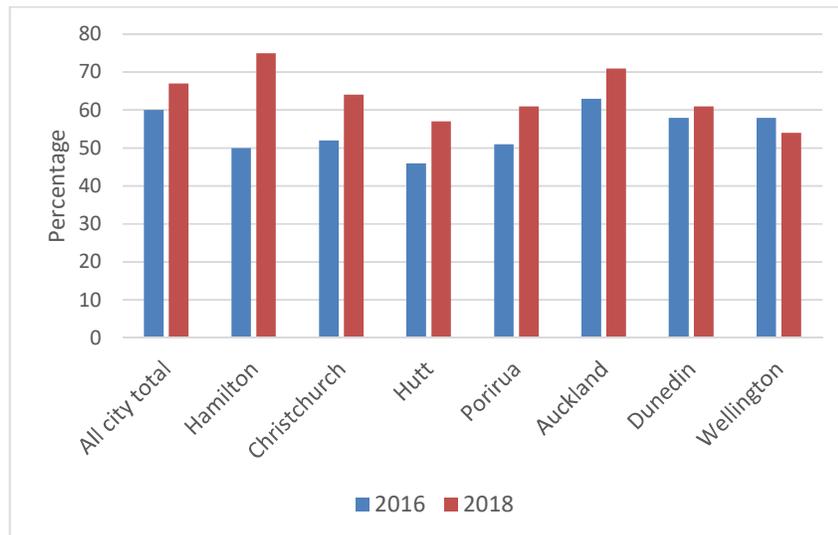
- 27) Table 1 - Respondents who **do not agree** that they have confidence that their local council makes decisions in the best interests of their city or area (%)

(cities are sorted from highest to lowest increase)

City	2016	2018	Increase (%)
All city total	60	67	7
Hamilton	50	75	25
Christchurch	52	64	12
Hutt	46	57	11
Porirua	51	61	10
Auckland	63	71	8
Dunedin	58	61	3
Wellington	58	54	-4

- 28) Figure 1 - Respondents who **do not agree** that they have confidence that their local council makes decisions in the best interests of their city or area (%)

(cities are sorted from highest to lowest increase)



Except for Wellington, all other cities experienced an increase in the number of respondents who **do not have** confidence that their local council makes decisions in the best interests of their city or area. Hamilton experienced a significant and the greatest increase over the two-year period.

- 29) This data must be considered against the requirements and intent of the LGA.

The oath of office for an elected member is a declaration that the member will faithfully and impartially, execute and perform, in the best interests of their community, the powers, authorities, and duties vested in or imposed upon them by virtue of the LGA 2002.

The purpose of local government is to enable democratic local decision-making and action by, and on behalf of, communities, and meet the current and future needs of communities for good-quality infrastructure and services in the most cost-effective way. (LGA, section 10)

The intent of the LGA is that decisions will be made in the best interests of the community.

**This survey results suggest that on average over 60% of the respondents do not have confidence that their elected members are making decisions that align with their oath of office.**

What impact does this have on the cost pressures placed via council on ratepayers?

**30) Question 19 of the 2018 Quality of Life survey.**

“Overall, how much influence do you feel the public has on the decisions the Council makes?

Would you say the public has.”

Responses are solicited on a 1 – 5 scale representing No influence, Small influence, Some influence, Large influence, Don't know

The survey presents data for the five points on the scale and sums one extra column – Net Some/Large influence (data from 3 & 4).

The question in this discussion considers the number of respondents who **do not feel** the public has at least some influence on the decisions the Council makes. This data is the sum of columns 1, 2 & 5 in the Quality of life survey, i.e. it excludes those who indicated some or large influence.

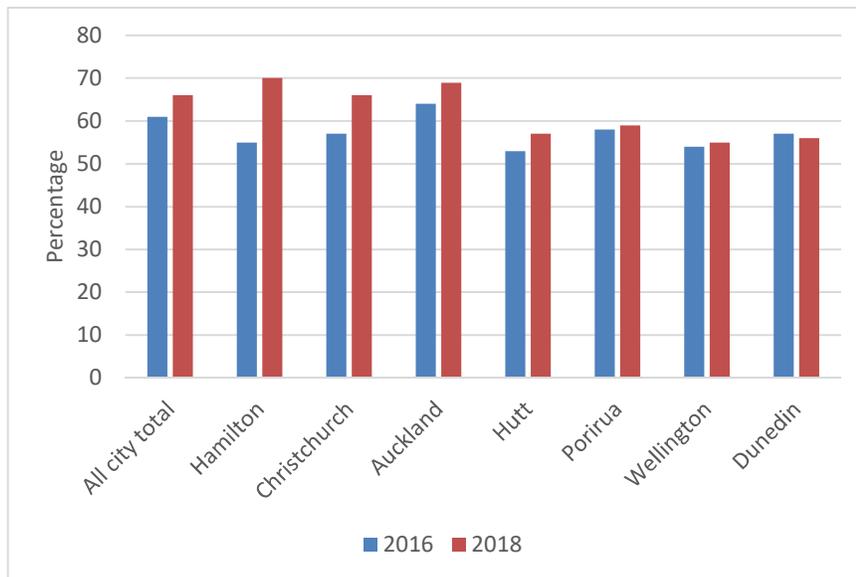
Data from both the 2016 and 2018 surveys were tabulated together and a third column shows the increase in respondents who **do not feel** the public has at least some influence on the decisions the Council makes, over the two-year period.

**31) Table 2 - Number of respondents who **do not feel** the public has at least some influence on the decisions the Council makes.**

(cities are sorted from highest to lowest increase)

City	2016	2018	Increase (%)
All city total	61	66	5
Hamilton	55	70	15
Christchurch	57	66	9
Auckland	64	69	5
Hutt	53	57	4
Porirua	58	59	1
Wellington	54	55	1
Dunedin	57	56	-1

- 32) Figure 2 - Number of respondents who **do not feel** the public has at least some influence on the decisions the Council makes.



Except for Dunedin, all other cities experienced an increase in the number of respondents who **do not feel** the public has at least some influence on the decisions the Council makes. Hamilton experienced a significant and the greatest increase over the two-year period.

- 33) This data must be considered against the requirements and intent of the LGA. The oath of office for an elected member is a declaration that the member will faithfully and impartially, execute and perform, in the best interests of their community, the powers, authorities, and duties vested in or imposed upon them by virtue of the LGA 2002.

The LGA was amended in 2002 to enable ratepayers to exert greater influence on the work of their councils. Therefore, the intent of the LGA is that the public will have greater influence on the decisions the Council makes.

**The 2018 survey results suggest that approx. 65% (the all city total) of the respondents do not feel the public has at least some influence on the decisions the Council makes. It also demonstrated that instead of the public having a greater influence on the decisions the Council makes, the influence is decreasing – contrary to the intent of the LGA.**

**Is the LGA in need of an overhaul, or is it because elected members of councils are not keeping their oath of office?**

- 34) The elected members oath of office requires members to declare that they will faithfully and impartially, and according to the best of their skill and judgment, execute... the duties... imposed upon them... by virtue of the LGA 2002.

The duties and intent of the LGA includes:

- a) The purpose of local government is to enable democratic local decision-making and action by, and on behalf of, communities, and meet the current and future needs of

communities for good-quality infrastructure and services in the most cost-effective way. (LGA, section 10)

- b) A council must act in accordance with the principle of making itself aware of and have regard to the views of all its communities; and when making a decision, council should take account of the community's interests (LGA section 14(1)(a-c))
  - c) A council should take into account the social, economic, and cultural interests of people and communities (LGA section 14(1)(h))
  - d) A council must, in the course of its decision-making give consideration to the views and preferences of persons likely to be affected by, or to have an interest in, the matter. (LGA section 78(1))
- 35) The data for both questions for all cities in this survey indicate a situation that is far removed from the intent of the LGA. If this finding were extrapolated to all local government in New Zealand and found to be correct, or even if it were partially correct, then this indicates a serious denial of the rights of all ratepayers.

What impact does this have on the cost pressures placed, via council, on ratepayers and their quality of life?

## Conclusion

The current problem of dealing with cost pressures, etc. on councils (together with the rise in rates) is either similar or the same problem that confronted the Shand Inquiry. The data presented here would point to the same answer to the problem that the Shand Inquiry gave; that the responsibility for addressing the issue of financial decision-making rests with local government itself, and that many of the remedies lie in self-management and the discipline of the democratic process including consultation with citizens.

The problem with this 'problem' is that approx. 11 years later the problem seems to be getting worse. The LGA was amended to enable ratepayers to exert greater influence on the work of their councils, yet the opposite seems to be happening. There are two probable reasons for this:

- a) The amendments to the LGA have not been effective in improving the situation, or
- b) The elected members of the local governments are not committed to their oath of office and to the duties they have given their word that they will uphold.

The data and the subsequent discussion points to the latter. It is suggested that this is due to a combination of factors:

- a) The lack of the commitment of elected members to honour their oath of office, and/or
- b) The lack of understanding and professional development required by elected members of the requirements and intent of the LGA.

The difficulty with b) above is the legislative requirement for the local authority to ensure that democratic governance is understood (etc.) by elected members and the community. If elected members and the community do not know this, then someone must be held responsible.

## **Submissions on Specific Questions from the Issues Document**

- Q1 What other differing circumstances across councils are relevant for understanding local government funding and financing issues?*
- a) The term 'differing circumstances' should include those local governments which are driven by the wants of a selected few who are either in council or who have the 'ear' of council.
  - b) The problem of driving wants and associated cost to the ratepayer is coupled with what can only be assumed to be a deliberate intent by elected members to block the process of the community holding elected members accountable (i.e. the Code of Conduct Policy).
- Q3 In what ways are population growth and decline affecting funding pressures for local government? How significant are these population trends compared to other funding pressures?*
- a) Population growth and decline can affect funding pressure for local government. The significance of this growth can and has been influenced by council members wanting growth in certain areas rather than letting the natural course of growth occur. For example: pouring huge amounts of money into a particular area to encourage development, when other areas are deemed to be less expensive to develop.
  - b) The significance of population growth trends has to be compared with the significance of the pressure placed on ratepayers by mayors and councillors wanting and continuing to push for big, nice-to-have, and expensive wants, even after the community has said NO!
- Q4 What are the implications of demographic changes such as population ageing for the costs faced by local government?*
- a) One significant implication of demographic changes (such as population ageing and/or those in the lower income bracket), is the increase in the number of people whose income cannot sustain the huge increase in rates.
  - b) A huge rate increase that outstrips an increase in earnings or pension means that councils are choosing to push more people over the poverty line.
- Q5 To what extent is tourism growth resulting in funding pressures for local government? Which councils are experiencing the greatest pressure, and how is this manifesting?*
- a) Tourism is just another word for activities in the same large group with the title 'entertainment'. People are 'entertained' while enjoying some natural view, skiing, bungee jumping, sport, arts, etc. I do not find any specific phrase in the LGA that requires local government to get involved in 'entertainment' business.
  - b) If a council is involved in rate-payer funded activities such as promoting tourism, arts event centres/theatres, sports stadiums, etc (usually for the minority), then they are choosing to place significant cost pressure on all the community just for the entertainment/pleasure of a few. More often than not, money is effectively taken from ordinary people and put into business owner's pockets.
  - c) The Shand Inquiry supports user-pays.

- d) Leaders continue to argue that tourism brings money into a community. If that was true, then wouldn't rates decrease?
- e) Councils should focus on the three waters, transport, etc. and ensure that costs are effectively shared on a 'user pays' principle. If any form of entertainment draws in an increase in number of people, then 'user-pays' rates should reflect the effect on the infrastructure. For example, if an event draws people into an area and accommodation space is full, then accommodation business owners expect the infrastructure to cope with that peak in loading. Rates should then cover the ongoing provision of not only the 'treatment' but the fact that the system must be big enough for that peak flow, even though that flow rate is only large for a small percentage of time. The principle of 'maximum demand' as used in commercial electricity tariffs should be used.
- f) Councils should also be very clear and transparent in the way rates/surcharges are applied.
  - i. Auckland's fuel tax is seen as a money grabbing exercise (disguised as needing better roads into the CBD) Why? Doesn't that mean that money is taken from ordinary people and effectively given to the CBD business owners (via the increase of people into the CBD).
  - ii. Auckland's accommodation surcharge on homeowners renting out their spare room is seen as another money-grabbing exercise – disguised as needed to promote tourism. When I go to Auckland to visit family, I have to pay for tourism promotion. Why? I don't visit any tourism places. I wouldn't mind if I knew for certain that an extra surcharge is to help pay for basic infrastructure so that my visit is not an extra burden on ordinary rate-payers. However, if it can be argued that Auckland needs to do this, then the whole country needs to do it. Conversely, if everyone is paying an accommodation surcharge, then everyone can just pay it in their rates thus keeping the concept of sharing what they have with everyone else who may come to visit.

*Q6 Is an expansion of local government responsibilities affecting cost pressures for local government? If so, which additional responsibilities are causing the most significant cost pressures and what is the nature of these increased costs? To what extent do these vary across local authorities?*

- a) This question is in effect an acknowledgement that central government (and/or their agencies) knows that local governments are becoming more involved in activities outside the scope/context of the LGA. What must be asked is why are local governments expanding their 'responsibilities????'. There has been no change in the LGA that would support this acknowledgement.
- b) I suggest that (some) councils have willingly turned away from a focus on the needs of the community and allowed their 'wants' to take over control and direction. For example; Hamilton's stated vision was to "build a stronger economy and a more attractive city for families" and the incoming mayor changed that to his vision "to encourage growth within Hamilton, reduce the red tape and encourage business".  
**OUT** went a focus on providing "a more attractive city for families"; and

**IN** came a focus on “growth” and “encourage business”, and “reduce the red tape” (which, in my opinion, can only mean not complying with the requirements set out in the LGA).

*Q9 Why is the price of goods and services purchased by local government rising faster than the consumer price index? To what extent is this contributing to cost pressures for local government?*

- a) The consumers price index (CPI) is a measure of inflation for New Zealand households<sup>20</sup>, not a measure of inflation for all those items that are not part of a typical household expenditure. It is difficult for me to imagine a council having a percentage budget having even the remotest similarity to my budget.
- b) It is difficult to understand why anyone would want to compare the two cost structures in this way.

*Q11 Is local government expenditure shifting away from traditional core business into activities such as economic development, sport and recreation and community development? If so, what is the rationale for this shift, and could these activities be better provided by other parties?*

- a) If this question was rewritten as ‘Is local government expenditure shifting away from core business which focuses on building safe communities and an attractive place for families to live (i.e. the intent of the LGA) into activities such as economic development, sport and recreation and community development?’, then my answer would definitely be YES!
- b) The answer to the question ‘If so, what is the rationale for this shift’, is greed and a lust for expensive fancy projects, coupled with a ‘want to have the best’ attitude (but not the best for the community); e.g. fancy stadiums, fancy theatres, fancy riverside areas in a CBD, etc.
- c) The answer to the question ‘could these activities be better provided by other parties?’ is YES – but not ‘could be’ but ‘must be’. If a business enterprise cannot make a success of providing ‘entertainment’ activities, then why should ratepayers have to pay for other people’s leisure wants.
- d) Where in legislation does it permit local authorities to take money from ratepayers and use it for projects other than basic infrastructure used by all. Where is the justice in our political system to stop this? Local authorities must be servants to the people, not money-grabbers for the few.

*Q12 Does the scope of activities funded by local government have implications for cost pressures? If so, in what ways?*

- a) Of course! At least the majority of those who fund the activities should agree they want the activity. If they don’t it should be scrapped!

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<sup>20</sup> [https://www.stats.govt.nz/indicators/consumers-price-index-cpi?gclid=EAIaIQobChMIhMSBkYCW4AIVHQoqCh3mNQj7EAAAYASAAEGK\\_G\\_D\\_BwE](https://www.stats.govt.nz/indicators/consumers-price-index-cpi?gclid=EAIaIQobChMIhMSBkYCW4AIVHQoqCh3mNQj7EAAAYASAAEGK_G_D_BwE)

- b) It would be better to ask, 'If local governments were to focus on doing what elected members give their oath to do, what implications for cost pressures would this have?'

*Q13 What other factors are currently generating local government cost pressures? What will be the most significant factors into the future?*

Lust and greed by elected members wanting fancy development and fancy projects.

*Q14 How will future trends, for example technological advances and changes in the composition of economic activity, affect local government cost pressures?*

This question addresses trends outside of the context of the LGA.

How about asking; 'How will future trends such as more people being pushed over the poverty line by excessive rates increases, affect local government cost pressures?'

*Q15 How effective is the Long-term Plan process in addressing cost pressures and keeping council services affordable for residents and businesses?*

- a) If the process was done in conjunction with an effort to enforce the elected member's oath of office which in turn requires them to act out the principles of the LGA, then the long-term plan is very effective. When LGA principles are not complied with, rate increases get out of control.
- b) If a 10-year plan is established on principles that focus on the whole community and the outcomes that the community wants, then a 10-year plan should only need minor corrections every three years. When a 10-year plan that was developed by a previous council is then replaced three years later because someone argues that the plan was unworkable, then the process needs to be addressed. For example, our mayor's new plan came with the attitude that he was adamant that he was right, that the existing plan was unworkable, and that his plan (which included expensive fancy projects and a massive rates rise), was the only way forward? Councils operating this way are most likely to be ineffective in addressing cost pressures and keeping council services affordable for residents and businesses!
- c) However, I do believe that if elected members respected their oath of office and focussed on working out the actual and intent of the LGA, then long term plans would be effective. The difficulty is that this would mean trying to find elected members whose focus was on serving the community and not themselves.

*Q16 How effective are councils' Long-term Plan consultation processes in aligning decisions about capital investments and service levels with the preferences, and willingness and ability to pay, of residents, businesses and other local organisations?*

- a) The processes set out in the LGA are effective.
- b) Ineffectiveness comes from councils not complying with the processes set out in the LGA.

*Q17 Is there scope to improve the effectiveness of Long-term Plan processes? If so, what, if any, changes would this require to the current framework for capital expenditure decision making?*

- a) There is a huge amount of scope to improve the effectiveness of Long-term Plan processes, but the improvement is not in major changes in the legislation.
- b) Communities have the right to expect local government to make sure that elected members and communities understand what democratic governance means. If communities understood how councils are legislatively required to perform their duties, then the long-term plan processes would be much more effective.
- c) Process for identifying community outcomes

The requirement for communities to develop community outcomes was “[Repealed] Section 91: repealed, on 27 November 2010, by section 13 of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).”

This now means that councils can change community outcomes to suit their agendas. These community outcomes can then be used to argue for fancy projects and other things that communities don’t want in a long-term plan.

*Q18 How much scope is there for local government to manage cost pressures by managing assets and delivering services more efficiently?*

- a) Lots of scope.
- b) Get rid of assets that the community does not want and give the communities what they want to pay for.
- c) Deliver services more efficiently by requiring elected members to honour their oath of office and focus on caring about and servicing the people in the community. Then that attitude would trickle down through the whole council and out to contractors.
- d) I have many minor issues with ‘service’ in my area of the city. Despite many millions of dollars being given away for a fancy project, my issues are met with ‘no money for that’.

*End*