He tono nā

Te Rūnanga o NGĀI TAHU

ki te

PRODUCTIVITY COMMISSION

e pā ana ki te

LOCAL GOVERNMENT FUNDING AND FINANCING -ISSUES PAPER

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contact person
Rebecca Clements | General Manager (Acting) – Te Whakaariki/Strategy & Influence I Te Rūnanga o Ngāi Tahu
rebecca.clements@ngaitahu.iwi.nz I Phone 021-829-920 I PO Box 13-046 I Christchurch

1. EXECUTIVE SUMMARY

1.1. Te Rūnanga o Ngāi Tahu (Te Rūnanga) has participated in various reforms affecting local government over recent years, building on consistent themes that also inform this response.

1.2. Effective local government that supports ahi kā is dependent upon sufficient resourcing, including resourcing that recognises the primacy of the Treaty partnership.

1.3. Te Rūnanga welcome exploration of new ways to support local government to deliver on behalf of manawhenua and their constituent Māori communities. An expansion of the current suite of funding and financing options will be a necessary addition for local authorities facing a range of challenges associated with resource limits and changing conditions.

2. GENERAL STATEMENT OF POSITION ON THE DISCUSSION DOCUMENT

2.1. The position of Te Rūnanga in relation to the Discussion Document is that:

- Recognition of the active Treaty partnership role of local government must inform options for supporting improvements to council income.

2.2. The following overall recommendations are made by Te Rūnanga, in the order they appear through this response:

- Reframe the section on Treaty Settlements to better reflect the Treaty partnership, the ways in which this is expressed and resourced, and the importance of continual progress in resourcing and implementation of those core relationships.
- Recognise the significance of long term planning between local authorities and iwi and hapū that enables ahi kā.
- Adopt a further 'Treaty partnership integrity' principle in design of any revised funding and financing framework.
- Explore the challenges facing districts with a high proportion of Crown land and tourism growth pressures, and how central government funding support might be weighted towards infrastructure and service provision in these districts.
- Understand that districts currently in decline will be places of importance to manawhenua, likely with potential that both local authorities and iwi and hapū can grow together as long term investors.
- Give greater consideration to household affordability when assessing models of council income generation, including reference to statistics relevant to Māori households which may be disproportionately affected.
- Explore potential sources of council income associated with natural resources and local activities, with reference to areas with a low ratepayer base.
- Recognise that a co-ordinated national climate change response will necessitate targeted central government funding support to local government.

3. TE RŪNANGA O NGĀI TAHU

3.1. This response is made on behalf of Te Rūnanga o Ngāi Tahu (Te Rūnanga), statutorily recognised as the representative tribal body of Ngāi Tahu whānui and established as a body corporate on 24th April 1996 under section 6 of the Te Rūnanga o Ngāi Tahu Act 1996 (the Act).

3.2. Te Rūnanga notes for the Commission the following relevant provisions of our constitutional documents:

Section 3 of the Act States:

> *"This Act binds the Crown and every person (including any body politic or corporate) whose rights are affected by any provisions of this Act."*

Section 15(1) of the Act states:

> *"Te Rūnanga o Ngāi Tahu shall be recognised for all purposes as the representative of Ngāi Tahu Whānui."*

3.3. The Charter of Te Rūnanga o Ngāi Tahu constitutes Te Rūnanga as the kaitiaki of the tribal interests.

3.4. Te Rūnanga respectfully requests that the Commission accord this response the status and weight due to the tribal collective, Ngāi Tahu whānui, currently comprising over 60,000 members, registered in accordance with section 8 of the Act.

3.5. Notwithstanding its statutory status as the representative voice of Ngāi Tahu whānui "for all purposes", Te Rūnanga accepts and respects the right of individuals and Papatipu Rūnanga to make their own responses in relation to this matter.

4. TE RŪNANGA INTERESTS IN THE ISSUES PAPER

4.1. Te Rūnanga notes the following particular interests in the Issues Paper:

Treaty Relationship

- Te Rūnanga o Ngāi Tahu have an expectation that the Crown will honour Te Tiriti o Waitangi (the Treaty) and the principles upon which the Treaty is founded.
- Te Rūnanga has a specific interest by virtue of the Ngāi Tahu Claims Settlement Act 1998 (NTCSA). The Act provides for Ngāi Tahu and the Crown to enter an age of co-operation, which is the basis of the post-Settlement relationship underpinning this response.
- The Crown apology to Ngāi Tahu, as shown in Appendix One, recognises the Treaty principles of rangatiratanga, partnership, active participation in decision-making, and active protection.
- There are 26 local authorities operating within the Ngāi Tahu takiwā, including unitary authorities on the northern boundary. Our 18 Papatipu Rūnanga are regularly engaging with them, with support from Te Rūnanga, as expressions of the Treaty partnership.

Rangatiratanga

- Te Rūnanga and Papatipu Rūnanga uphold the mana of Ngāi Tahu through local leadership.

Kaitiakitanga

- Kaitiakitanga is about ensuring that future generations have a relationship with Te Ao Tūroa (the natural world) that sustains them in the way that generations before have been sustained. Te Rūnanga are guided always by the whakatauki: "Mō tātou, ā, mō kā uri ā muri ake nei" (*For us, and those who come after us*).
- Local authority responsibilities for resource management intersect with the kaitiaki responsibilities of Ngāi Tahu whānui.

Whānaungatanga

- Te Rūnanga has a responsibility to enable the social, cultural and economic wellbeing of Ngāi Tahu whānui, working with Papatipu Rūnanga, Ngāi Tahu Holdings Corporation and local authorities.

4.2. With regards to the Ngāi Tahu takiwā, Section 5 of the Te Rūnanga o Ngāi Tahu Act 1996 statutorily defines the Ngāi Tahu takiwā as those areas "south of the northern most boundaries described in the decision of the Māori Appellate Court …" which in effect is south of Te Parinui o Whiti on the East Coast and Kahurangi Point on the West Coast of the South Island.

4.3. Section 2 of the Ngāi Tahu Claims Settlement Act 1998 statutorily defines the Ngāi Tahu claim area as being:

"the area shown on allocation plan NT 504 (SO 19900), being—

(a) the takiwā of Ngāi Tahu Whānui; and
(b) the coastal marine area adjacent to the coastal boundary of the takiwā of Ngāi Tahu Whānui; and
(c) the New Zealand fisheries waters within the coastal marine area and exclusive economic zone adjacent to the seaward boundary of that coastal marine area;—
and, for the purposes of this definition, the northern sea boundaries of the coastal marine area have been determined using the equidistance principle, and the northern sea boundaries of the exclusive economic zone have been determined using the perpendicular to the meridian principle from the seaward boundary of the coastal marine area (with provision to exclude part of the New Zealand fisheries waters around the Chatham Islands)."

(See the map attached as **Appendix Two**)

5. TREATY PARTNERSHIP

5.1. There is a fundamental relationship between the roles and responsibilities of local government and delivery of whānau aspirations.

5.2. Ahi kā, the whakapapa connection of whānau with lands and their need to keep home fires burning, has a primary link with development and resource management in district and regional contexts. For that reason, the Treaty partnership is central in interactions between local authorities and Papatipu Rūnanga within the Ngāi Tahu takiwā.

5.3. The section entitled 'Treaty of Waitangi Settlements' (p34) needs to be reframed to reflect the Treaty partnership as it is expressed through our relationships with local government. The document (p7) appropriately references Section 4 of the Local Government Act 2002 (LGA) and Section 8 of the Resource Management Act (RMA) as relevant to constitutional arrangements, both of which refer to Treaty principles. Those principles incorporate the partnership between Crown and iwi and hapū (see 4.1 above). Previous findings of the Productivity Commission[1] have helpfully outlined the Treaty relationship as it applies in the context of local government. Te Rūnanga see those findings as valuable and wish to see them reflected in this current inquiry process.

5.4. This means that the Treaty itself provides the foundation, and from the perspective of Ngāi Tahu as a Treaty partner, the inherent rights, interests and values of manawhenua are integral.

5.5. There are various ways in which the Treaty partnership finds expression through relationships between Ngāi Tahu and local authorities, beyond the details of the Ngāi Tahu Claims Settlement Act 1998 (NTCSA). Two examples are the Tuia agreement between Papatipu Rūnanga and Environment Canterbury, and the co-governance arrangement in place to manage Te Waihora/Lake Ellesmere. Both of these vehicles have on-going funding implications for the regional council. A number of councils are also in discussions with Ngāi Tahu regarding Mana Whakahono a Rohe agreements to apply under the RMA, which will also incorporate funding implications for both Ngāi Tahu and those councils.

5.6. Where the Issues Paper identifies matters associated with regulatory creep, which may compound an 'unfunded mandate' problem, it is important to note that for every new responsibility that must be met by council, there will be a corresponding resource implication for Ngāi Tahu. For example, as councils work to implement any new requirements created by a proposed National Policy Statement on Indigenous Biodiversity, our resources and systems will need to be able to meet the associated demands.

5.7. While the focus is on costs to local authorities, the benefits of working with iwi and hapū as primary partners need to be acknowledged. Te Rūnanga each bring resources to the table to enable the Treaty partnership and support positive outcomes for environmental management. As noted in our response to the *Low Emissions Economy Transition* inquiry, iwi authorities will continue to grow, which will naturally result in partnering more and more in regional development and resource management matters. For instance, there are opportunities for facilitation of transfer of powers under the RMA (Section 33).

5.8. Opportunities exist for long term planning between councils and iwi that helps identify Treaty partnership priorities. For example, many traditional areas of Māori settlement have suffered from low levels of council expenditure and support. New papakainga provisions being introduced into local planning instruments are providing for improved ways to utilise Māori lands and enable iwi and hapū to invest in these areas. This enables growth where there has been stagnation and facilitates potential for return of whānau to lands of cultural significance.

5.9. In relation to principles of a funding and financing framework (p48) Te Rūnanga note that Treaty partnership integrity is a relevant principle. This certainly has links to

[1] Towards Better Local Regulation, Productivity Commission (2013), p179

the equity and fairness principle, and to fiscal adequacy, but is also a distinct and significant element that should be considered in design.

Recommendation

5.8. Te Rūnanga recommends the following:

- Reframe the section on Treaty Settlements to better reflect the Treaty partnership, the ways in which this is expressed and resourced, and the importance of continual progress in resourcing and implementation of those core relationships.
- Recognise the significance of long term planning between local authorities and iwi and hapū that enables ahi kā.
- Adopt a further 'Treaty partnership integrity' principle in design of any revised funding and financing framework.

6. RURAL AND PROVINCIAL COUNCILS

6.1. In response to the question regarding limits to population and employment growth potential (p11), we note that there are large tracts of Crown land within the Ngāi Tahu takiwā that impact particular districts (eg Westland). Sparse populations with extensive roading networks to isolated areas, and tourism pressures, are a common feature in these districts. It is important to recognise the impact on local authorities of the Crown being a substantial landowner in districts such as these. Weighting funding support towards these areas is justifiable to help councils better meet infrastructure and service demands. The same is true wherever there are significant tourism pressures and low ratepayer bases.

6.2. Statements around failures of economic development policies in declining areas (p55) is missing the genuine potential to establish new cornerstone businesses or industries in these areas, which may be associated with significant natural capital. Looking for, and providing for, those investment opportunities makes sense for local authorities. These are areas of importance to manawhenua, so continued effort in investment and development is essential. Te Rūnanga have spoken before of the remarkable turnaround of Kaikōura due to the growth of the Ngāi Tahu whānau initiated Whale Watch business. It is short-sighted to "write off" areas currently in decline, and so to miss the creative role that iwi and hapū will naturally play in districts that others dismiss or abandon. Whakapapa connections necessitate progressive and enduring investment that provides a counter to the drift towards metropolitan centres.

Recommendation

6.3. Te Rūnanga recommends the following:

- Explore the challenges facing districts with a high proportion of Crown land and tourism growth pressures, and how central government funding support might be weighted towards infrastructure and service provision in these districts.
- Understand that districts currently in decline will be places of importance to manawhenua, likely with potential that both local authorities and iwi and hapū can grow together as long term investors.

7. CHARGES, LEVIES AND EQUITY

7.1. There is some discussion of volumetric charging for drinking water, and that this may be comparable to using rates to pay for water supply infrastructure in terms of costs per household (p27-28). This seems unlikely. There will certainly be greater disparities between households, particularly those with a larger number of occupants. While paying by volume may encourage behavioural change when it comes to water use patterns (p49), it is also most likely to negatively impact on low income households, some of whom may be larger families or families sharing accommodation in an effort to reduce living costs. If there is genuinely little difference in average costs per household, then there is also likely to be little difference in income to councils. The question is then one of even distribution of costs across ratepayers or disparate costs based on a user pays approach. Te Rūnanga would not wish to see new variable cost pressures coming on to households that may already be struggling, particularly in relation to something as fundamental to life and well-being as drinking water. There are alternatives for managing water use, such as controlling supply (eg restrictors).

7.2. Similar references are made to volumetric charging for wastewater and pricing the use of roads, including existing roads. Te Rūnanga see the need to consider these ideas in relation to government goals for poverty reduction, and to Treaty partnership responsibilities. Any measure introduced to improve income generation for councils must explore the impact on low income households and disproportionate impacts on Māori, with reference to available statistics.

7.2. Where the issues paper considers rating rises in property values, this would likely have a negative impact on affordability in areas where market increases have already made properties significantly unaffordable relative to average incomes.

7.3. There are a range of opportunities that appear to be underexplored in the paper related to potential council income associated with natural resources and local activities (p57). While these forms of income may fluctuate, they can be estimated. Volumetric charging for water at the household level is discussed, but less attention is given to charging for commercial water use, such as recent emphasis on potential for royalties to be charged on water bottling operations. Mineral resources in a district are also a potential source of royalty income. While currently a central government revenue stream, there is potential for a share to flow to the district of origin, as happens in offshore jurisdictions. There is also potential in administration of the Emissions Trading Scheme (ETS) for directing funds back to councils. These forms of income would be variable district by district, but could be genuinely useful in addressing income shortfalls in areas with low rating bases. Key to the success of these ideas will be simple systems of administration, based on geographical source of revenue, which may be centrally organised.

7.5 Te Rūnanga expect that such opportunities are developed with due recognition and provision for the rights and interests of Ngāi Tahu as mana whenua and the Crown's Treaty partner. We expect to work in partnership with councils and other organisations (such as Crown Research Institutes or universities) on all matters pertaining to the management of natural resources in the Ngāi Tahu takiwā. This comprises engagement from the outset of any initiative, to scope and shape the opportunities, carrying on through appropriate involvement in governance, management and implementation.

Recommendation

7.4. Te Rūnanga recommends the following:

- Give greater consideration to household affordability when assessing models of council income generation, including reference to statistics relevant to Māori households which may be disproportionately affected.
- Explore potential sources of council income associated with natural resources and local activities, with reference to areas with a low ratepayer base.

8. CLIMATE CHANGE

8.1. National climate change response will require central government coordination and support in order to achieve equitable and effective transitions, and to manage disparities related to population, natural limits, economic activity and combined pressures manifesting in particular districts. There is clear need for a central funding pool that councils can access for the purposes of assisting with adaptation and transition, outside of the existing borrowing structure. This should be based upon clearly articulated values and framed around criteria designed to meet the requirements of national strategy.

Recommendation

8.5. Te Rūnanga recommends the following:

- Recognise that a co-ordinated national climate change response will necessitate targeted central government funding support to local government.

APPENDIX ONE: TEXT OF CROWN APOLOGY

The following is text of the Crown apology contained in the Ngāi Tahu Claims Settlement Act 1998.

Part One – Apology by the Crown to Ngāi Tahu

Section 6 Text in English

The text of the apology in English is as follows:

1. The Crown recognises the protracted labours of the Ngāi Tahu ancestors in pursuit of their claims for redress and compensation against the Crown for nearly 150 years, as alluded to in the Ngāi Tahu proverb 'He mahi kai takata, he mahi kai hoaka' ('It is work that consumes people, as greenstone consumes sandstone'). The Ngāi Tahu understanding of the Crown's responsibilities conveyed to Queen Victoria by Matiaha Tiramorehu in a petition in 1857, guided the Ngāi Tahu ancestors. Tiramorehu wrote:

   "'*This was the command thy love laid upon these Governors … that the law be made one, that the commandments be made one, that the nation be made one, that the white skin be made just equal with the dark skin, and to lay down the love of thy graciousness to the Māori that they dwell happily … and remember the power of thy name."*

   The Crown hereby acknowledges the work of the Ngāi Tahu ancestors and makes this apology to them and to their descendants.

2. The Crown acknowledges that it acted unconscionably and in repeated breach of the principles of the Treaty of Waitangi in its dealings with Ngāi Tahu in the purchases of Ngāi Tahu land. The Crown further acknowledges that in relation to the deeds of purchase it has failed in most material respects to honour its obligations to Ngāi Tahu as its Treaty partner, while it also failed to set aside adequate lands for Ngāi Tahu's use, and to provide adequate economic and social resources for Ngāi Tahu.

3. The Crown acknowledges that, in breach of Article Two of the Treaty, it failed to preserve and protect Ngāi Tahu's use and ownership of such of their land and valued possessions as they wished to retain.

4. The Crown recognises that it has failed to act towards Ngāi Tahu reasonably and with the utmost good faith in a manner consistent with the honour of the Crown. That failure is referred to in the Ngāi Tahu saying 'Te Hapa o Niu Tireni!' ('The unfulfilled promise of New Zealand'). The Crown further recognises that its failure always to act in good faith deprived Ngāi Tahu of the opportunity to develop and kept the tribe for several generations in a state of poverty, a state referred to in the proverb 'Te mate o te iwi' ('The malaise of the tribe').

5. The Crown recognises that Ngāi Tahu has been consistently loyal to the Crown, and that the tribe has honoured its obligations and responsibilities under the Treaty of Waitangi and duties as citizens of the nation, especially, but not exclusively, in their active service in all of the major conflicts up to the present time to which New Zealand has sent troops. The Crown pays tribute to Ngāi Tahu's loyalty and to the contribution made by the tribe to the nation.

6. The Crown expresses its profound regret and apologises unreservedly to all members of Ngāi Tahu Whānui for the suffering and hardship caused to Ngāi Tahu, and for the harmful effects which resulted to the welfare, economy and development of Ngāi Tahu as a tribe. The Crown acknowledges that such suffering, hardship and harmful effects resulted from its failures to honour its obligations to Ngāi Tahu under the deeds of purchase whereby it acquired Ngāi Tahu lands, to set aside adequate lands for the tribe's use, to allow reasonable access to traditional sources of food, to protect Ngāi Tahu's rights to pounamu and such other valued possessions as the tribe wished to retain, or to remedy effectually Ngāi Tahu's grievances.

7. The Crown apologises to Ngāi Tahu for its past failures to acknowledge Ngāi Tahu rangatiratanga and mana over the South Island lands within its boundaries, and, in fulfilment of its Treaty obligations, the Crown recognises Ngāi Tahu as the tangata whenua of, and as holding rangatiratanga within, the Takiwā of Ngāi Tahu Whānui.

Accordingly, the Crown seeks on behalf of all New Zealanders to atone for these acknowledged injustices, so far as that is now possible, and, with the historical grievances finally settled as to matters set out in the Deed of Settlement signed on 21 November 1997, to begin the process of healing and to enter a new age of co-operation with Ngāi Tahu."

APPENDIX TWO: NGĀI TAHU TAKIWĀ