

29 August 2019

The New Zealand Productivity Commission
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Via email to: www.productivity.govt.nz/make-a-submission

Dear Productivity Commission

SUBMISSION ON LOCAL GOVERNMENT FUNDING AND FINANCING DRAFT REPORT

1. Hawke's Bay Regional Council (HBRC) provides this submission on the 'Local Government Funding and Financing Draft Report' prepared by the NZ Productivity Commission (the Draft Report).
2. HBRC wishes to speak to this submission.

Background to Hawke's Bay Region

3. The Hawke's Bay region spans over 1.42 million hectares of land and 350 kilometres of coastline on the North Island's East Coast, and is home to some 166,000 people (3.4% of the national population). Of those people, some 24% are Maori (9% of the national Maori population), with Ngati Kahungunu being the largest Iwi grouping (the 3rd largest Iwi in New Zealand).
4. The total capital value of rating units within the region was approximately \$34.6 billion as at 30 June 2018, held in just over 70,000 rating units, while the total land value was just under \$18 billion.
5. The forecast for the 2018-19 financial year estimates approximately \$51 million in revenue will be generated from rates (uniform annual general charge, general rate on land value, targeted rate), activities, subsidies and grants, fair value gains on investments, and other sources (notably revenue from dividends, rentals from investment properties and interest). Of that forecast revenue, approximately \$47 million is expected to be spent, mainly on activities, personnel costs, finance costs and depreciation.
6. As a region, we face all of the challenging costs identified in the Terms of Reference for this report, namely:
 - a) Supply of development capacity to address declining housing affordability
 - b) Maintenance of services in areas with declining populations
 - c) Requirements for higher performance to meet environmental and health standards
 - d) Costs of adapting communities and infrastructure to mitigate risks and hazards associated with climate change
 - e) Support for regional development, including tourism
 - f) Replacement of existing infrastructure coming to the end of its useful life.

7. In addition, Treaty of Waitangi settlements and other Treaty obligations are imposing additional costs for HBRC.
8. In June 2019, HBRC formally declared a climate emergency, recognising global warming to be an urgent and pervasive threat to human and ecological wellbeing.
9. HBRC has been active in a number of significant projects, alongside our territorial authority partners, including the:
 - a) Three Waters response to the Havelock North Drinking Water Inquiry
 - b) Clifton-Tangoio Coastal Hazards Strategy, looking to adapt to sea level rise and the impacts of climate change along this section of the East Coast
 - c) Heretaunga Plains Urban Development Strategy, looking to provide for future urban growth within and around Napier, Hastings and Havelock North
 - d) Reinstatement of the East Coast railway from Napier to Gisborne
 - e) Catchment management planning to address national freshwater requirements and meet community aspirations for freshwater.
10. HBRC is developing a comprehensive climate change response programme which is expected to require substantial additional resourcing to support necessary changes to how our regional communities, and ourselves as regional leaders, undertake our businesses. This may include establishment of region-wide funding to address the public benefit component of climate change response initiatives.
11. All of these demands illustrate the types of financial demands and pressures which must be met to ensure our regional communities and businesses continue to thrive into the future.

Chapters 4.2 and 6.7: Pressures on funding and financing: High rates of deprivation

13. A number of communities within Hawke's Bay cannot easily manage the likely future cost increases arising from local government activities, as illustrated in Figure 4.2 Accommodation supplement recipients of the Draft Report (page 63), which shows that over 10% of the Wairoa District population is in receipt of this supplement. Just under 8% of the population in Napier City and Hastings District are in receipt of this supplement.
14. Given the nature of issues such as climate change, HBRC considers that **alternative funding options should be made available, especially for those who are less well-off**, so that they are not unfairly impacted financially.

Chapters 4.3, 4.5 and 6.8: Increasing responsibilities and rising community expectations

15. The Draft Report identifies a number of new types of responsibilities that are being devolved to local government (summarised in Table 4.3, page 64). HBRC notes that the report omits possible national direction on significant natural hazards, or the impacts of any reform to the Resource Management Act. Both of these matters could significantly impact on our funding and financing needs.
16. HBRC notes that both national directions and increasing community expectations for a better quality environment have resulted in the council expanding its operations recently. Recent expansion has been driven by the NPS Freshwater Management, and its associated monitoring demands and requirements to establish freshwater management unit targets and limits for freshwater management. However, emerging proposals from Government may require HBRC to bring forward its catchment plan-making work, together with the associated increase in implementation activities.

17. Further, new requirements for reporting and planning arising out of proposed legislation, such as the Zero Carbon Bill, are expected to increase funding and financing needs.
18. HBRC considers that, **in devolving responsibilities to local government, central government should focus on identifying the:**
 - a) **Outcome** that is to be achieved;
 - b) **Necessary monitoring** to be able to report on progress towards achieving the outcome, locally and nationally;
 - c) **Funding sources**, including any **additional funding** from government.

Local government should then be left to determine how it achieves the outcome in ways appropriate to their communities, thus avoiding problems associated with 'one size fits all'. **Guidance can be prepared to assist** in identifying the pathway forwards, including implementation options suitable for councils with limited resources.

Chapters 4.4 and 6.8: Treaty of Waitangi settlements and other Treaty obligations

19. The most significant direct cost for HBRC arising from Treaty settlements has been the requirement to establish the Hawke's Bay Regional Planning Committee (RPC), established initially in 2011 and formalised in its own legislation in 2015. The purpose of the RPC is to oversee the development and review of the RMA documents prepared in accordance with the RMA for the region. There are 10 tāngata whenua members appointed from the iwi entities named in the RPC Act, and 10 appointed Councillors, as shown in Figure 1, below.

FIGURE 1: MEMBERSHIP OF THE HAWKE'S BAY RPC

11 Membership of RPC

- (1) The RPC consists of an equal number of tāngata whenua members and Council members as follows:

Tāngata whenua members

- (a) 1 member appointed by the trustees of the Maungaharuru-Tangitū Trust:
- (b) 1 member appointed by the trustees of the Ngāti Pāhauwera Development Trust:
- (c) 1 member appointed by the trustees of Tūhoe Te Uru Taumatua:
- (d) 1 member appointed by the trustees of the Te Kotahitanga o Ngāti Tūwharetoa:
- (e) 1 member appointed by Mana Ahuriri Incorporated:
- (f) 1 member appointed by the trustees of Te Kōpere o te iwi o Hineuru Trust:
- (g) 1 member appointed by Te Tira Whakaemi o Te Wairoa:
- (h) 2 members appointed by the trustees of the Heretaunga Tamatea Settlement Trust:
- (i) 1 member appointed by the appointer for Ngāti Ruapani ki Waikaremoana:

Council members

- (j) 10 members appointed by the Council (who must be councillors of the Council holding office and, if there is an insufficient number of councillors, such other persons appointed by the Council in accordance with [clause 31\(3\)](#) of Schedule 7 of the Local Government Act 2002).

20. HBRC recognises that the RPC provides opportunities for HBRC and tāngata whenua to develop strengthened partnerships and for the exercise of kaitiakitanga by mana whenua in the takiwa. Hawke's Bay was the first region in Aotearoa New Zealand to have such a region-wide committee.
21. **In response to Question 4.1a (Business as usual costs), the RPC has now become a core function of HBRC**, as a standing committee. All costs, including administrative support, independent technical advisors and training, are now part of business as usual and its responsibilities cannot otherwise be discharged except in accordance with the provisions of the RPC Act.

22. **In response to Question 4.1b (Treaty-related costs to meet Crown obligations)**, the RPC was initially established through the Crown's settlement with Ngāti Pāhauwera, with assistance from a one-off financial contribution from the Crown of \$100,000. That contribution was intended to cover RPC establishment costs and meeting and mandating expenses, with any unspent amount transferred to the balance for the following year. Meeting fees for tāngata whenua were initially paid from this fund.¹
23. Since 2015, the actual cost of operating the RPC to date has been nearly \$800,000, with an annual ongoing cost of \$163,000 per year (2.3% of rates). The Crown have provided no further contributions, so all ongoing costs fall directly on ratepayers or other HBRC funding sources.
24. HBRC recognises that the RPC has been established as part of a negotiated settlement and that it is a legitimate Crown aim to provide for such an enduring co-governance mechanism with Iwi. HBRC notes that while there are benefits to the regional community in having such a committee functioning well, HBRC must still meet its obligations under legislation under the RMA regardless of this committee. Accordingly, HBRC considers that the **Crown should provide ongoing support through a fair share of funding to assist the effective operating of such co-governance arrangements**, in recognition of the Crown-Iwi relationship, though the Crown should not necessarily meet the full cost.
25. HBRC requests that the **Crown become a more significant funder of new and emerging Treaty settlement-related responsibilities for local government**. Some obvious costs contributions would be for building Iwi capacity to enable improved participation and support good decision-making. Some new and emerging costs for implementing similar co-governance arrangements ought to be made available, such as for Mana Whakahono a Rohe. Such funding would more effectively result in a true partnership between the levels of government, as discussed in Chapter 6.8 (page 179) of the Draft Report.

Chapters 4.6 and 6.7: Funding to address tourism

26. HBRC supports the underlying benefit principle for allocating costs. In order to allocate the otherwise unfunded costs associated with tourism, **HBRC prefers Option 3** in Table 6.4: **Central government rebates a portion of the GST** that it collects from tourists' consumption in the area. We consider that this best recognises the impacts of tourism on a local community. For Hawke's Bay, Accommodation services receive a small percentage of average tourism spend, and targeting this sector alone is not in accordance with the benefit principle.
27. For example, the Commission's report states (page 79):
- A strong tourism industry supports a range of businesses – accommodation providers, tourism providers, as well as restaurants and retail. In the year ending march 2018, domestic and international tourists in New Zealand collectively spent almost \$39.1 billion (Including GST) on products including retail sales (\$12 billion), food and beverage services (\$4 Billion) and accommodation services (\$3 billion) (Statistics NZ, 2018e)*
28. If the government chooses another option for tourism costs, then **HBRC requests**:
- a) That the **definition of 'tourism centres' is broadened**, so that smaller tourism areas can access any levy, including centres such as Napier, Hastings, Wairoa, Waipawa and Waipukurau, as well as our coastal communities
 - b) That any **accommodation levy applied to** recover tourism-induced costs should be able to be applied to **wider tourism activities**, including tourism marketing and promotion, and not just for local mixed-use facilities.

¹ Regional Planning Committee Annual Report 2013, Hawke's Bay Regional Council, SD 13/05.

29. HBRC **supports application of any accommodation levy to all accommodation**, including through platform providers, such as Airbnb and Bookabach. This supports the benefit principle as all such providers benefit financially from visitors (some more so than others). It is unfair for some providers to be levied and others not, all should contribute towards the costs of servicing tourists.
30. HBRC **supports the use of a database of accommodation providers, and requests support in requiring all accommodation providers to register** with their local council. To that end, HBRC request that the Commission endorse the recent Local Government NZ remit:

That LGNZ advocates for enabling legislation that would allow councils to require all guest accommodation providers to register with the council and that provides an efficient approach to imposing punitive action on operators who don't comply.

Chapters 4.7, 6.8 and 8: Climate change and natural hazards

31. HBRC agrees that there is a need to explore possible new frameworks and institutions to address climate change-related funding, and that such funding arrangements will need to fit in a 'complex, dynamic and uncertain environment' (page 211). The analysis of existing frameworks (at pages 220-222) is a fair summary of issues. This should include a thorough assessment of relevant legislation to check whether it is fit for purpose, particularly in the face of risk profiles changing during the life of any asset/structure.
32. While sea level rise presents a large hazard to the country, including Hawke's Bay, a range of other climate-related hazards are just as important to manage for. One of the critical challenges is to support communities in looking beyond the next twenty years to pro-actively create new futures, rather than hold onto past structures and ways of operating when change in shape or form is inevitable.
33. With respect to Q8.1, HBRC considers that a condition on a land use consent whereby the current owner voluntarily assumes risk is of doubtful value, as it is so difficult to understand the nature and impacts of these risks. Regardless of the individual's stated understanding and acceptance of risks, communities of people typically will always look out for each other and risk themselves should an event occur (as indicated in F8.5, page 226, and describing New Zealand's strong tradition of social insurance).
34. **HBRC supports the concept of establishing a Local Government Climate Resilience Fund for water and river infrastructure, with co-funding** for necessary infrastructure works. HBRC notes that much of the existing drainage and flood mitigation infrastructure in Hawke's Bay was funded by central government subsidy through the National Water and Soil Conservation Authority. Currently, Hawke's Bay's flood control infrastructure provides \$28 billion net present benefit to New Zealand (based on Tonkin and Taylor's assessment in 2018). Without significant investment, it is likely that the impacts of climate change will erode this benefit.
35. Further, HBRC considers that **new financial and funding models that better account for changing risk in future are needed** to ensure funding and financial solutions meet the principles of good financial management, including affordability. Much of the drainage and flood mitigation infrastructure has been deemed to have an infinite life, and accordingly it has not been depreciated for future replacement. Given the changing risk profile for flooding that is expected to result from climate change, it is no longer possible to expect that such infrastructure will be fit for purpose in perpetuity. Necessary upgrades to this infrastructure to maintain levels of service are expensive and under the current funding regime, will fall on targeted rates based on the benefit principle. New challenges are being created as HBRC looks

beyond the first stage of the, itself a ground-breaking strategy for addressing climate change and sea level rise.

36. There is already significant guidance available to councils on climate change adaptation. HBRC has been active in developing the ground-breaking Clifton-Tangoio Coastal Strategy, which applies much of this guidance. The most significant challenges are around funding, particularly beyond the first stage of strategy implementation. HBRC considers that **responsibilities for climate change adaptation for regional councils and territorial authorities within the region should be strengthened and clarified**. This, in turn, will clarify the funding responsibilities for each level of local government. Funding of climate change adaptations is crucial for any such response to commence.
37. HBRC would welcome a **social insurance methodology on offsetting the cost of climate change adaptation**.
38. Further, HBRC notes that under the current rating framework, the Crown makes no rating contribution towards the protection of government-owned land and assets such as schools, hospitals etc. HBRC considers that, in accordance with the benefit principle, **Crown owned land should contribute towards the costs of relevant climate adaptation programmes**.
39. HBRC requests stronger alignment between the New Zealand Coastal Policy Statement (NZCPS) and the RMA. For example, the NZCPS promotes managed retreat and natural defense mechanisms and looking to longer term effects (typically over 50+ years), while the RMA plan-making functions have a shorter effects horizon (typically of about 20 years). HBRC considers that the **RMA should be better aligned with the NZCPS, and include stronger mechanisms for addressing cumulative long term impacts**, possibly of 100+ years.
40. HBRC **supports the notion of 'making room for rivers'** and would encourage tools and changes to legislation to facilitate the adoption of these changes. This should recognise the natural characteristics of rivers, including accretion and erosion of bed material along the course of the river. HBRC considers this is necessary because any change to the existing environment (enabled because of the stopbanks) would likely result in significant opposition from private land owners affected.
41. HBRC also **supports moves towards pro-actively reducing natural hazard risk exposure**, rather than increasing hazard event response requirements.
42. HBRC notes that in placing a new emphasis on climate adaptation, **government should remain aware that a number of other natural hazards exist**, including earthquakes, tsunami and volcanic activity, which also risk life and property. Relative risks across the country should be kept in perspective and managed accordingly.
43. HBRC also notes that for any work that is undertaken, such as in upgrading flood protection works, the community also expects a number of other benefits to be provided, including provision of recreational opportunities and biodiversity and habitat improvements through, for example, riparian planting. **Projects with multiple benefits should be better accommodated** within any funding and finance system.

Chapters 4.8 and 8: Three waters infrastructure

44. HBRC recognises the significance of the three waters sector issues and reforms and considers that the **framework for establishment, assessment and compliance for water services should be strengthened**, to ensure sound decision-making so that those services perform well. The regulatory functions performed by various agencies, including the Ministry of Health, regional councils and territorial authorities, should be streamlined and strengthened, with drinking

water quality as the highest priority within the framework. A rationalisation of the number of agencies involved should be actioned.

Chapter 5: Improved decision-making

45. For the **Financial Disclosure regime**: HBRC agrees with the overall conclusion of the Working Group that the set of information currently required is excessive in its detail and confusing in its specification (page 110). Accordingly, **HBRC agrees that**:
 - a) **principle-based guidance would be useful** to ensure accounting standards are met
 - b) **the information is useful to the customer**
 - c) **a working group is established which includes local government representation** and consultation with the Office of the Auditor-General
 - d) **the concept of integrated reporting warrants further investigation** and alignment with the various monitoring and reporting requirements under the RMA, the LGA and other local government-oriented legislation.
46. HBRC notes that it is continuing to evolve how it monitors and reports back progress to the regional community, including through its work performance reports, annual report and RMA plan efficiency and effectiveness reporting. HBRC already has a Finance, Audit and Risk Sub-Committee which includes an independent member, and, at the request of the Office of the Auditor General, will be considering appointment of an independent sub-committee chair.
47. In terms of engagement with Maori, the establishment and operation of Hawke's Bay's RPC has already been discussed (refer to paragraphs 19 to 25).
48. HBRC will also be engaging with the community next year (in 2020) to develop a clear pathway for the regional community to mitigate and adapt to climate change. Information gathered will input to HBRC's next Long Term Plan. Use of techniques and methods such as those described in the Draft Report will be important components of this programme for community engagement. Strategic realignment, if necessary, may be one response.
49. HBRC **supports the Draft Report's preference to use a spatial planning approach to promote a more co-ordinated and integrated approach to strategic planning** as well as investment decision-making.

Chapter 6.4: Making better use of existing funding tools – Napier Port IPO

50. HBRC has recently considered the future needs of Napier Port and how best to balance the growing requirements for infrastructure investment with limiting demands on ratepayers and retaining control of strategic assets. HBRC decided to partially privatise the Port company. Last week (20 August 2019) the Napier Port IPO was minority listed on the New Zealand Stock Exchange, with an initial public offering of 45% of the company. Hawke's Bay residents, ratepayers, port employees and certain iwi entities had the first opportunity to purchase shares. The initial response to the share listing has been positive, with \$234 million raised and the shares increasing in value quickly. HBRC considers **that minority sale of some strategic assets (such as ports) may provide a pathway to attract necessary investment funding** without creating an undue burden on ratepayers. HBRC would be pleased to discuss this process in more depth with the Productivity Commission.

Essential Freshwater Reforms

51. HBRC notes that the Essential Freshwater reforms programme is proposed for release on 5 September, and is acutely aware that significant changes are pending. Accordingly, HBRC requests to be able to **provide further submissions on Essential Freshwater** to the Productivity Commission once it has been possible to fully assess the proposal.

Summary

52. HBRC thanks the Productivity Commission for its broad and well considered Draft Report on Local Government Funding and Finance. The issues identified need to be addressed, and with the additional requests made in this submission (in particular support in meeting new legislative requirements and Treaty obligations, support for demands from tourism, and a much longer term framework for climate change responses) should go a good way towards enabling local government to meet its obligations to its communities and to the government into the future.

Yours sincerely



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