

Environment Canterbury submission on the Productivity Commission's Local Government Funding and Financing Inquiry

Summary

1. Thank you for the opportunity to comment on the draft report into local government funding and financing.
2. We provide this submission in the context of our regional council roles and responsibilities. As the largest regional council in New Zealand by area and the second-largest in terms of population (estimated at 624,000) we have great geographical diversity and variation in population density across the region which contributes to a wide range of community needs and expectations. As a regional council we have a strong focus on the delivery of regulatory services rather than services to property which is more the role of the territorial authorities.
3. In our submission on the issues paper for this inquiry and the engagement meeting in Christchurch on 27 March 2019 we provided some comments about the inflexibility of rates and the ongoing challenge we face to keep rate increases below inflation. This is in the context of: the open-ended nature of the demand for the kind of regulatory services we provide, increasing community expectations, our statutory responsibilities, and our desire to improve levels of service. We outlined significant emerging cost pressures of concern, including adapting to climate change and accumulating responsibilities for regional councils from central government. We also concluded that there is scope to improve statutory decision-making processes.
4. In this submission we discuss the recommendations related to issues raised in our previous submission and refer to some recent government policy developments. There are some valuable recommendations within the report that could help improve decision making by making processes more efficient and effective whilst maintaining transparency. There is also merit in some of the recommendations made to respond to the funding pressures identified. However, overall, we find that the report does not sufficiently address the fundamental issues of the limitations of rating as a tool and the need to keep rates increases in line with inflation. Rather, in our view the report focuses too much on peripheral issues.
5. The need to keep rates in line with inflation limits councils' flexibility to respond to community needs each year and to change expenditures year to year. Discipline is required year on year to constrain expenditure growth, which often clashes with the imperatives of responding to community demands and reflecting local democracy. Councils necessarily prioritise and are limited by what activity is reasonable, reasonably affordable for landowners and what ratepayers are willing to pay. Prioritisation of future needs is often difficult to balance with current community needs and expectations whilst addressing legacy issues.
6. Expenditure and rates will continue to rise as will increased pressures from the cumulative impact of the funding pressures identified by the Commission. These key funding pressures identified are impacting on communities now and will increasingly do so in the future. The sustained increases in rates that funding these pressures will require will not be sustainable and it will become increasingly difficult to keep a lid on rates whilst contributing to community wellbeing. The report has noted that current adequacy and sustainability are not a reliable guide to future sustainability and adequacy. **These funding pressures will not be able to be afforded by rating alone and a holistic analysis of alternative options is needed, not a piecemeal approach that proceeds on the assumption that rates should remain the principal source of local government revenue.**

Improving decision making

7. We welcome any proposals that aim to make decision making more efficient and effective whilst maintaining transparency and public scrutiny. If the recommendations of chapter 5 were to be prioritised, **we would first and foremost be prioritising work to streamline Long-Term Plans (R5.7) and reviewing local government reporting requirements (R5.4).**

Long-Term Plans

8. In response to **Q5.1**, at face value reducing the frequency of LTP reviews from three to five years could reduce costs, given the resources required to produce an LTP every three years. It could also increase certainty for some groups (i.e. funding partners) setting out planned activities for five years instead of three and increase the ability to demonstrate success. However, the fundamental issue here is that changing the frequency of the LTPs would be out of sync with the triennial election cycles.
9. Currently work to deliver the LTP aligns well with the induction of a new council, enabling them to have the opportunity to set their strategic direction and influence investment. Forecasting budgets and work programmes out five years or more could also be problematic and lead to reduced ability to respond to the changes in technology and science, central government election and budget cycles, and crises or unidentified risks. This could lead to reduced specificity for the latter years and the Annual Plan for year 5 could look very different from year 1. A less frequent LTP also limits community engagement on the council's direction, although a counter argument is it may possibly increase engagement if only every five years.
10. Given the fundamental link of the LTP cycle to the triennial election cycle, as an alternative recommendation **Environment Canterbury proposes that the Government assess whether the local government electoral term could be extended to four years.** The frequency of LTP review should subsequently reflect any change in electoral cycle terms. The case for a four-year parliamentary term was discussed in this recent report from Victoria University¹ and there would be merit in reviewing the central and local government electoral cycles concurrently.
11. The Government has recently announced² the scope of the comprehensive review of the resource management system which includes reviewing how the Resource Management Act (RMA) interacts with other key legislation including the Local Government Act (LGA), Land Transport Management Act (LTMA) and Climate Change Response Act (CCRA) including the Zero Carbon Amendment Bill. One of the major complexities of delivering LTPs and effectively engaging with our community is factoring in other local government planning cycles. For example, land transport investment planning and engagement with the community under the LTMA often overlaps with the LTP by a matter of months. We are also unclear about how the proposed National Climate Change Risk Assessment and National Adaptation Plan will fit with local government planning cycles. **The Government should look at alignment of the planning cycles as part of the RMA Stage 2 review.**
12. We also note with interest the Commission's **finding 5.11** to apply a spatial planning approach to LTPs. Spatial planning was included in the scope of the RMA review, and work to see how the different Acts approach planning and interact with the RMA would be a worthwhile exercise to look at options for spatial planning approaches across the different legislation.

¹ https://www.victoria.ac.nz/_data/assets/pdf_file/0011/1753571/Foresight-insight-and-oversight.pdf

² <https://www.mfe.govt.nz/rma/improving-our-resource-management-system>

13. We wish to clarify the quoted text on page 125 – we were not explicitly suggesting that LTPs should be ten years, merely that one of the disadvantages of the LTP process is that it takes years to realise the outcomes of investment.
14. Regardless of changes to the frequency of electoral terms **we recommend work is undertaken as a priority to make improvements to the LTP process, particularly R5.7 to revise the LGA to clarify and streamline the required content of the LTPs** to reduce duplication, ease compliance costs and help make them more accessible to the community. As noted in section 5.12 there is scope to improve civic understanding and participation. The current complexity and length of the LTPs does not aid civic understanding and participation. In reviewing content, we need to recognise that no one size fits all needs and further guidance, tailored to different types of councils, would also be welcomed. More opportunities for shared services between councils could also be investigated e.g. consultation tools.
15. **We are unclear on the purpose and value of adding information requirements for the consultation documents (R5.6)** – some flexibility is required as there are circumstances where fully describing practicable options and providing information on rates and levels of service would not be suitable i.e. presenting binary options whether to adopt a policy or not, or when seeking views on a range of options. We are concerned adding more requirements is prescriptive and further adds complexity. Consultation document requirements are relatively recent (2014) so lessons are still being learned. Best practice guidance on consultation documents including options analysis may be an alternative way forward.
16. The scope of audit requirements should be reviewed. Audit requirements place great pressure on the delivery of the LTP and every three years auditors generally need to upskill on local government forecasting. Auditors seem to have too much influence on the presentation of the final product for consultation and should focus on the business planning rather than the strategy components.

Reporting requirements

17. **We strongly support the review of the local government reporting framework (R5.4)** as we agree with the Commission's finding that current reporting requirements are excessively detailed, inappropriately focused, not fit-for-purpose and a one-size-fits-all approach. The requirements are too inflexible to allow for differing types of councils and are a burden for smaller councils. Similar to the LTP, the costs to implement are significant and complexity is an issue.

Capability and Audit and Risk committees

18. **We support in principle the recommendations (R5.1, R5.2) to ensure capability of Councils and that elected members possess the full range of skills for effective governance.** However, it should be recognised that experience/mix will vary from council to council and individual to individual so needs will vary greatly. Ultimately it is up to elected members to engage with the training and take responsibility for their professional development. We note the range of training and support of sector groups already on offer and that evaluations are likely part of usual best practice, so we do not consider this recommendation adds significant value.
19. Likewise, **we support, in principle R.3, to strengthen the capability of Assurance and Risk Committees through independent membership and follow best practice guidance.** However, going as far to amend legislative requirements is too restrictive. One size does not fit all, and needs will vary across the country, term to term. Councils may find it hard to fill independent positions and meet statutory obligations if amendments are too prescriptive and encouraging best practice is likely the most suitable way forward.

Central and local government partnership

20. Identifying the accumulation of responsibilities placed on local government by central government as a key funding pressure is appropriate. This was a key pressure noted in our previous submission. The underlying issue is the lack of consideration by central government of resourcing implications for local government and how these costs will be met. It is often up to local government to articulate to central government what the costs might be, with no support from central government to resource this scoping work. **Central government should estimate the costs to local government of new or amended legislation and regulations when designing these.**
21. Central government direction is valuable to ensure consistent application of national legislation at a local level, and there has been considerable improvement in the quality and amount of direction coming from Government over the years. For example, tools that have been implemented under the RMA to direct how the Act should be administered and applied. As discussed with the Commission, in the case of the National Planning Standards there was reasonable engagement and understanding of the costs for regional councils. However, this has not been the case for the suite of National Policy Statements that are currently in the pipeline (NPS-FM and NES, NPS-IB, NPS-UDC). This is coupled with frequent churn to policies also, e.g. NPS-FM in 2011, 2014, 2017 and soon to be 2019. There are recent examples of regional council staff having worked alongside Ministry for the Environment in Wellington that has been of benefit to designing national direction although it does take in-house expertise away from council while staff are in Wellington.
22. Given the above, we **support the recommendation (R6.10) to reset the central and local government relationship.** A 'Guide for central government engagement with local government'³ was recently published. This guidance was developed with input from central and local government. We recommend that the Commission consider how the draft report's recommendation to develop a 'Partners in Regulation' protocol compares with the purpose and principles of the recently published guidance. This will help Government understand what more is needed in addition to the guidance to make an enduring and equal partnership.
23. In setting up partnership arrangements, it is critical to understand the different types of councils. Regional councils are the minority of local authorities, being just 11 of the 78 local authorities. However, we have a markedly different role from district and city councils and collectively represent the whole population of New Zealand. Therefore, in proposals for a 'Partners in Regulation' protocol we **recommend that the Commission is explicit that differing types of councils each need appropriate representation.**
24. An improved, constructive relationship will take time to implement and realise the benefits. In the meantime there is a significant gap on how to fund the accumulation of responsibilities already being implemented or in the pipeline. There is a current area of tension between local and central government about who pays for funding pressures, such as adapting to climate change or unfunded mandates where there are both community and national benefits. **R6.9** notes that maintaining integrity of local government autonomy, responsibility and accountability should guide central government funding of local government activities. Both local and central government have 'skin in the game' to see money well spent. Yet, in a number of circumstances, local government is restricted in its ability to raise revenue via rates or indeed other than via rates. **Further clarity about funding arrangements between local and central government is needed for the partnership to be successful and equal.**

³ [https://www.dia.govt.nz/diawebsite.nsf/Files/Central-Local-Government-Partnerships/\\$file/Guide-for-central-local-government-engagement-20-June-2019-a.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Central-Local-Government-Partnerships/$file/Guide-for-central-local-government-engagement-20-June-2019-a.pdf)

Adapting to climate change

25. We strongly agree that adapting to climate change is already a significant funding pressure. Some communities are already facing the impacts of climate change, and it is with great urgency that local government needs clarity on funding arrangements. The costs to adapt to climate change are beyond the reach of many/most communities and rates will become increasingly less affordable if they are expected to cope with this potentially significant challenge. **The (F6.3) report recognises that current tools are not sufficient to respond to climate change – we recommend the Commission go further and reflect the urgency needed for Government to decide on funding arrangements in respect of climate change adaptation.**
26. **We strongly support nationally led knowledge and guidance in partnership with local government.** High quality and robust data and science is needed, e.g. on rainfall and run-off, as well as consistent advice on policy, planning, decision making, legal and community engagement. For local government to individually resource this guidance and knowledge would be costly and risk inconsistency. In considering these proposals **Government needs to consider how the two proposed centres of knowledge and guidance align** with implementation of the Climate Change Response Amendment Bill i.e. the development of the proposed National Adaptation Plan and National Climate Change Risk Assessment. Two new centres and a new agency sounds complex and resource heavy and thought needs to be given to what existing structures could be expanded or amended to fulfil these roles. It needs to be clear where local government and the wider community can go to for a single consistent nationally-led source of knowledge and guidance.
27. **We agree with F8.7 and R8.6** regarding work on the best approach to lessen future flood risks from rivers, including moving to a new, more sustainable and best-practice paradigm of giving rivers room and developing multiple innovative uses of the wider river corridors. Allowing wider river corridors has a number of benefits aside from flood protection such as biodiversity gains and recreational opportunities. But implementation of wider river corridors can be challenging, (especially as these impinge on private property) i.e. the application of physical lines should be considered in best practice guidance.
28. **We support the principle of a new agency and local government resilience fund (R8.6)** however not much information is given in the report about what the role of the agency might be. Will it administer the resilience fund or provide advice? How will the new agency work with the proposed two centres in R8.1? We recommend the Commission clarify the purpose and scope of the agency so it is clear how the proposal will align with other centres tasked with providing advice and/or funding on adapting to climate change. More details about the expectations and model of the Local Government Resilience Fund would also be helpful to clarify.
29. **We have reservations about extending the NZTA model (R8.6)** to co-fund the costs of adapting land-transport infrastructure and re-locating local roads and bridges. We are concerned about how other roading priorities i.e. road safety and public transport investment will be considered if total infrastructure funding remains fixed and doesn't grow. Although funding will be conditional on a strong business case, past experience from oversubscriptions to funding assistance rates (FARs) means we have concerns about how competing priorities will be balanced within limited funding.

Equity and affordability

30. **We disagree with the finding that ‘there is little or no evidence that rates have become less affordable over time’ (F7.5).** Our community consistently raises concerns about rates increases through submissions on the Long-Term and Annual Plans each year, and we struggle to keep rates increases in line with inflation whilst delivering on community expectations and future needs.

31. A report on costs and funding of local government for DIA by MorrisonLow⁴ in 2018 found that
- *“rates are becoming less affordable for all groups of ratepayers over time, with rates increasing faster than average household incomes, Consumer Price Index (CPI), average household living costs or the Local Government Cost Index (LGCI). Both historical and forecast rates increases exceed wage growth, CPI growth and LGCI growth. Rates rises at that level are not sustainable.”*
32. We accept that incomes have increased over time and that the Commission’s findings were based on income. As noted, in the report “comparing the growth in rates revenue with growth in gross domestic income is a simple, if somewhat blunt, method for measuring aggregate changes in the affordability of rates over time”. We also recognise that the transparency of rating compared to taxation leads to more commentary and perception from ratepayers about affordability and inflation. However, we have concerns about the sustainability of rates year to year, particularly for those on fixed incomes given the population is structurally ageing⁵.
33. It is also unhelpful to provide such a generalised blanket statement across the whole country as there will be variation in affordability between the 78 local authorities and uneven distribution of funding pressures (e.g. tourism growth), distribution of wealth and community needs. Also, additional funding pressures due to impacts from natural hazards can greatly vary and be unpredictable. For example, in recent years Christchurch City Council and Kaikōura District Councils have faced funding challenges due to the impacts of severe earthquakes.
34. Given the inquiry topic, concerns about rates increases across the country and the funding pressures identified, it would be beneficial to have a more comprehensive analysis of rates affordability and sustainability. **We recommend commentary to explain differences between the report findings, the differences between transparency of rates at local government level versus central government taxation and rates affordability and sustainability considering the identified funding pressures.**
35. **We cautiously support recommendation 7.2 that local government legislation should be amended to require councils, in setting rates, to apply a two-step process** – considering benefits as the first step and then ability to pay as the second. This strengthens allocation of rates according to who benefits from council services. **Guidance on how to apply the benefit in rating decisions (R7.3) is welcomed.** But importantly, as noted in the recommendations, Council should continue to have the power to determine, on reasonable grounds, the appropriate allocation of rates within their region as to enable local decisions to be made to reflect community needs between different councils.
36. It is also important to recognise that as elected authorities, city, district, unitary and regional councils are all required to represent their electors. That is, they are as entitled as central government to take into account issues of equity and ability to pay. It is not only central government that will be expected to apply an equity “yardstick” to its taxation or revenue policies. That will also be expected of local and regional government. Put another way, while the benefit principle may be an appropriate starting point when considering who should pay for local government services it can never be the final answer. Nor should it be forgotten that local and regional government both have representative functions and are not merely suppliers of property-based services.
37. Accordingly, we **disagree with changes to the Local Government (Rating) Act 2002 to remove rates differentials and UAGCs (R7.1)** as these changes will reduce the range of funding tools

⁴ [https://www.dia.govt.nz/diawebsite.nsf/Files/Central-Local-Government-Partnerships/\\$file/Costs-and-funding-of-local-government-Morrison-Low-report.docx](https://www.dia.govt.nz/diawebsite.nsf/Files/Central-Local-Government-Partnerships/$file/Costs-and-funding-of-local-government-Morrison-Low-report.docx)

⁵ <https://www.stats.govt.nz/news/superannuitants-feel-effects-of-rates-rises>

available to councils. There needs to be assurance about access to a broader range of funding tools before this recommendation should be considered. A lot of our services are not directly related to property and there are risks in over-simplifying who benefits from services, e.g. for biodiversity and water management the benefits are wide and collective responsibilities are easily over-looked. Environment Canterbury uses UAGC (e.g. for regional parks) which gives the ability to match the level of rates that sectors pay with the benefits received from local services and to reduce reliance on rates. A range of funding tools need to be available to allow local decisions to be made and local community needs to be met.

38. Furthermore, the main argument to remove these appears to be to increase transparency. However, it is unclear how removing these will lead to improved transparency. For example, Environment Canterbury currently uses 257 differentials for river rating and the justification for how these differentials were established is spelled out in council documents. It is also unclear whether targeted rates can fully compensate for the loss of the power to set differential rates. Finally, we would observe that differential rating is often used by councils as a means of ameliorating otherwise significant rate rises. That is, it is both a tool that provides flexibility and a means of making “equitable” adjustments. We disagree that there is a strong case for its removal.

Other

39. Finally, we note that the Terms of Reference of this inquiry direct the Commission to make no recommendations on mechanisms for rating of Crown land. Nevertheless, we support the Commission’s previous recommendation that central government should pay rates on its properties to provide additional revenue for councils and help alleviate funding pressures. **We recommend the Commission examine submitter comments on the topic and provide a finding in the report (i.e. page 6 of the report) that demonstrates the extent of submitters support for rating of Crown land.**