

New Zealand Productivity Commission, Local Government Funding and Financing, Issues Paper November 2018

**Submission by Dr Kenneth Palmer, Research Fellow, Law School,
The University of Auckland**

Introduction

The Issues Paper from the New Zealand Productivity Commission invites submissions. Part 1 “The inquiry”, sets out the background to the Paper, and indicates what the inquiry is and is not about. In particular the statement is made “The inquiry Terms of Reference do not call for an assessment of, or changes to, the current scope and responsibilities of local government. Were the scope and responsibilities to change significantly, a fresh look at the appropriate range of funding and financing tools would be required”.

This submission proposes to raise some fundamental issues which appear to be desirable in responding to the referral by the Government to undertake the inquiry into local government funding and financing. In the writer’s opinion, the Issues do require a partial consideration of the allocation of functions between central and local government. However, accepting that the status quo as to functions is likely to remain unaltered, the relevant issues are whether or not central government should have a responsibility to fund or subsidise to a greater extent than presently available, the costs which otherwise fall on local authorities. Much of this submission will address that second issue as to the fairness or need for better funding from central government for certain local authority activities. The ability to fine tune the present funding options for local authorities is very limited, and is not likely to produce any significant improvement in the problems presently experienced.

Previous Inquiries

General information on the history and theory of local authorities is set out in chapter 23 of the author’s text, Kenneth Palmer, *Local Authorities Law in New Zealand* (Thomson Reuters 2012).

Regarding previous inquiries into funding, chapter 11.1 “Land Valuation Procedures”, footnote 5, refers to the text by Rolland O’Regan, *Rating in New Zealand* (2nd ed, Baranduin Publishers, Petone 1985), who champions unimproved value rating, on the assertion that other systems suffer the essential defect of penalising property improvement. That is one view that has relevance to a question of rating base choice in the paper. The present author does not support the view that the land value is the best system, and maintains that the capital value system as adopted in the Auckland region is the better option, at least for a large urban local authority.

In Palmer, chapter 12.1 “Local Authority Rating”, footnote 6, other full inquiries are noted:

Report of the Local Authority Finance Committee (Sir Patrick O’Dea), *Local Authority Finance in New Zealand* (Department of Internal Affairs 1973);

Report of the Local Authority Finance Committee, *Local Authority Finance in New Zealand* (DIA 1977);

Dr Claudia Scott, *Local and Regional Government in New Zealand: Function and Finance* (George Allen and Unwin, Sydney, 1979) (more general comment)

Officials Coordinating Committee on Local Government, *Reform of Local and Regional Government: Funding Issues* (1988), 2.2.3;

Reform of Local and Regional Government, Discussion Document, Officials Coordinating Committee, February 1988 at chapter 1;

Report of the Local Government Rates Inquiry, *Funding Local Government* (DIA, 2007) (Shand Report);

As a broad observation, the past inquiry reports analyse in detail and provide recommendations for improvement to the existing rating systems and other financing options. These reports indicate that the scope for new charges is relatively constrained. However in present times, more effective use of options could be given prominence, such as targeted rates for hotel, motel, and Air BnB “accommodation providers” (as adopted by Auckland Council in 2017, 2018), and other adjustments of charges for use of public facilities and parks administered by local authorities. For example, the imposition of higher charges for overseas or out of district visitors to museums and parks, with concessions for local residents.

It is worth recalling that the past claims for or recommendations that central government should share a proportion of income tax revenue or GST with local authorities (or remit GST on rates), have generally been rejected by successive governments. In particular Sir Robert Muldoon, in his time as Minister of Finance and Prime Minister, firmly rejected these suggestions, with a rebuff that local authorities should pull back their expenditure, and remain within prudent budgets and borrowing limits.

Local Government Act 2002, pt 6, subpt 3- “Financial management”

The approach of constraint and fiscal conservatism, is explicit in the Local Government Act 2002, s 14 “Principles relating to local authorities”, s 14(1)(g) “A local authority should ensure prudent stewardship and the efficient and effective use of its resources in the interests of its district or region, including by planning effectively for the future management of its assets”.

The balanced budget requirement under LGA, s 100, and the financial management directions under s 101 have a similar focus, that local authorities should deal prudently with financial matters in promoting the current and future interests of the community.

One comment that could be made on performance of local authorities, it is the question whether or not the Audit Office adequately carries out its function as auditor of the Long-term Plan, the Annual Plan, the Annual Report of local authorities.¹ For example, the overspending of the Kaipara District Council over a period of years on tangible infrastructure for waste water disposal, appears to raise serious issues as to the performance of the Audit Office. As an observation, it is of note that no issue appears to have been made by the local authority against the Audit Office for not holding the council to account earlier in the authorisation and contracting process.

¹ Local Government Act 2002, ss 93(10)(b), 94, 95(7)(b), 98(6), 99.

Fundamental Issues

As indicated, the funding and financing inquiry raises the opportunity to consider various substantial issues, despite the constraints issued by the Government in this undertaking.

It is instructive that the question of local authority expenditure and funding should be approached within an historical context. Attention is drawn to the Report of the Local Bills Committee 1959-60 (The May Report) *Inquiry into the Structure of Local Government* (Government Printer Wellington 1960). The report sets out in an informative and comprehensive manner, much of the detailed history of the establishment of local government, structure, functions and funding up to 1960. Particular attention is drawn to the fact that a number of major functions have been transferred from local authority responsibility to central government over that period, and subsequent to 1960. These transfers remain relevant to the present financial burden on a local authority. Attention is drawn to the following selected functions.

Hospital and Health Care

The May Report, under Part II Historical Development of Local Government in New Zealand, at para 37, refers to the Hospitals and Charitable Institutions Act 1909, under which local authorities carried a burden for local health services. This was progressively subsidised by central government, with the Hospitals Amendment Act 1951 marking the point where all local hospital rating was to cease within five years, and under the Hospitals Act 1957 the government took over full responsibility for financing hospitals. This evolution of responsibility illustrates a basic point, that certain functions such as public health, are now far beyond the capacity of local authorities to fund under a local rating system. Public health services are a much more appropriate function for central government to manage, and to fund largely from income tax revenue. It would be unthinkable today to turn back the public hospital and health services funding responsibility on to local authorities in whole or part.

The exemption of hospital and health services land from general rates, remains a minor and justifiable contribution or subsidy from local authorities.²

Fire Services

At para 45 of the May Report, reference is made to the evolution of fire brigades, first established under the Municipal Corporations Act 1876, with progressive reforms and changes, and the sharing of the funding between the fire premiums on insurance policies, and local government. As the Commission will be aware, the control of local fire brigades was nationalised under the New Zealand Fire Service Act 1975, and since that date, no financial or administrative responsibility has rested on local authorities to contribute to the fire service function.

The Police

In a similar vein, police services, initially undertaken in part at a local authority level, in particular the enforcement of traffic management through local authority traffic officers, has

² Local Government (Rating) Act 2002, s 8, sch 1, part 1, cl 8.

since the 1960s been assumed wholly as a national service under the New Zealand Police. Again for efficiency, logistic and other governmental purposes, it is unthinkable that local authorities should now return to providing traditional policing services for maintaining civil order, prevention and investigation of criminal offending.

Local authorities may contract security firms, for the enforcement of noise control, and employ traffic warden to enforce parking bylaws, bus lane transgressions, and the enforcement of freedom camping bylaws. The bylaw regulatory activities are largely self-funding with the returns from parking charges and infringement notices, meeting the costs of the traffic warden and security services undertakings. Local authorities can adjust the level of parking charges to finance the regulatory services.³

Road construction and public transport subsidy

Initially a function of local government under the early Municipal Corporations Act, Counties Act, and the Road Boards Act 1882, road functions remain a partly shared responsibility between central and local government. As the Commission will be well aware, the responsibility for the state highway network, undertaken by the former Ministry of Works and Development, has been continued as a function of the New Zealand Transport Agency under the Land Transport Management Act.⁴

Further, the Land Transport Management Act provides a system of partial subsidies for the other roads which remain the responsibility of local authorities. This is an area where the responsibilities remain shared between the state highway network, which is influenced by the government policy statement (GPS) and the national land transport programme and the national land transport fund.

The details of this structure and the allocation of road and public transport funding for local authorities, raises a significant issue as to whether that amount of funding and assured term should be clarified, and more certainty and support given to local authorities which are struggling to meet these costs from rating revenue. This is one area where further recommendations are important. The high road roll in the rural areas, indicates that many local authority roads are below standard, and the councils lack any realistic ability to improve the safety of the roads. The ad hoc nature of the Government response may be partly inevitable under the current 3 year term of government, and the political reality of differing GPS statements and priorities of the government of the day. As a matter of public policy, all state highways and local arterial roads should be improved with central barriers, and NZTA should fund this work.

Education

It is acknowledged that the education system is largely funded by central government, and no specific obligations remain on local authorities to provide schools or facilities promoting education. However a number of local authorities, under their discretionary budgets do provide support for local educational initiatives, and maintain playing fields on public reserves which are utilised at times substantially by teams from schools and for a huge variety of sporting

³ See K Palmer, *Local Authorities Law in New Zealand* (Brookers, 2012), chs 13, 14.

⁴ Land Transport Management Act 2003, ss 10 (national land transport fund), 66 (GPS on land transport), 93 (NZTA establishment); Government Roadway Powers Act 1989, s 61 (State highways), 62-65 (delegation to territorial authorities).

activities. It is acknowledged that certain minimum subsidies are channelled through central government entities to support sport and recreation, but these grants should be increased on a contestable basis.⁵

Drinking Water Supplies

The Issues Paper acknowledges the function of local authorities to provide clean water supplies, and it is apparent that a number of local authorities have struggled to meet the targets and do not have the resources to fund the standards expected. Under the Health Act 1956, s 27A, provision exists for central government through the Ministry to provide funding support for local authorities towards the cost of the investigation, planning and construction of public water supplies, refuse disposal works, sewerage works, and works for the disposal of sewage.

In the past, certain guaranteed funding support has been available, but this assured subsidisation has been discontinued in recent years. Local authorities have now to approach central government on an ad hoc basis, seeking funding support in special cases. This is not a satisfactory situation where central government prescribes the expectations of drinking water performance. More comprehensive funding support should be given by central government, with flexibility for total financial support in appropriate cases.⁶

The planning and water quality expectations under the National Policy Statement on Fresh Water Management (2014) are imposed on local authorities, yet central government does not appear to be providing any financial support which could be necessary for achieving the outcome water quality standards, and for trunk reticulation, reservoirs and irrigation dams. The long times allowed for compliance with the NPS indicate a lack of commitment to the goals.

Waste Water reticulation and treatment

In a similar manner, the continuing expectation that waste water treatment and reticulation is wholly a responsibility of local government, avoids the reality that in a number of local authority areas, with or without high growth, the provision of waste water systems is an expense which the local authority may not be able to meet. As noted, the waste water reticulation in the Kaipara District Council greatly exceeded the financial capacity of the council, and was allowed to continue for several years without restraint through the Audit Office. The end result is a large burden on the ratepayers. In this type of situation, central government should openly provide for subsidies (future and retrospective) and support for the outcomes which do promote public wellbeing and public health. The provision for financial advances under the Health Act, needs to be revisited and reworked to provide this ongoing commitment. Healthy water supplies, have the same fundamental benefit that provision of the public health system has. The link between providing potable water, disposal of waste in a sanitary manner, and ground and coastal contamination, has a clear link to the cost of health and hospital services maintained by central government.

Civil defence and emergency management

At the regional level, local authorities are required to combine to constitute civil defence emergency management groups and appoint a group controller, and to prepare a civil defence

⁵ See K Palmer, *Local Authorities Law in New Zealand* (Brookers, 2012), ch 6.14 (miscellaneous revenue and grants). Sport and Recreation New Zealand Act 2002, s 8 (national policies and allocation of funds).

⁶ Health Act 1965, Part 2A, Drinking water, ss 69A-69ZZZE (inserted 2011).

emergency management group plan.⁷ The plan is approved by the Minister. In the event that a civil defence emergency arises, depending on the severity of the event, a national or local civil defence of emergency is declared. This event, the relevant authorities have a responsibility and power to undertake remedial and mitigation activities. The administrative cost of establishing and developing the group plan is one to be shared among the local authorities.⁸

In the event that significant action is required, provision is made for payment of compensation for property requisitioned and for compensation to personal property which is damaged by the remedial action, and compensation may be liable for other events. Compensation payable for property acquisition or damage is to be met by money appropriated out of Parliament. In respect of compensation for other matters, liability depends on whether the property is insured or uninsured, and whether the action was the responsibility of the local authorities group or that of the Crown.⁹ A comment could be made that the costs of civil defence may be relatively significant in relation to the capacity of revenues of local government. In this respect, a greater contribution towards the administrative and any compensation liability could fairly be shared by central government out of taxpayer revenue.

Where a catastrophic civil defence event occurs such as the Canterbury earthquakes, it is clear that the normal civil defence agency response is not able to comprehend all the powers and actions that may be necessary. The Canterbury Earthquake Recovery Act 2011, provides an example of the extensive legal powers required. The more recent Greater Christchurch Regeneration Act 2016, confirms the long recovery or transition period that maybe required. The special legislation gave rise to litigation relating to financial claims for damage to property and the relationship to insurance or lack of insurance on properties. The experience indicates that central government will probably assist by substantial funding to rebuild urban infrastructure, but the policies appear to be developed on a discretionary basis. Local authorities have no assurance as to guarantee or longer term financial assistance. This outcome may be the only practicable approach, but it could be desirable for central government to commit as a matter of policy, if not legal obligation, to greater responsibility in assisting local authorities in funding the costs of civil defence emergencies and recovery programs. The costs may be well beyond the capacity of a local authority.¹⁰

Affordable Housing and Adequate Housing Provision

The provision of affordable housing, was pre 2002 a function undertaken by a number of local authorities, with financial incentives from central government for providing pensioner rental housing. Under the general power held by local authorities between 2002 and 2012, to promote the wellbeing in the communities, provision of pensioner housing and affordable housing remained a legitimate function of local government.¹¹ However, following the amendment to the Local Government Act in 2012, to redefine the purpose of local government “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

⁷ Civil Defence Emergency Management Act 2002. See K Palmer, ch 22.2

⁸ Ibid, s 24.

⁹ Ibid, ss 107, 108, 109.

¹⁰ Greater Christchurch Regeneration Act 2016, ss 83, 84, 110-117 (Crown liability for property acquisition or damage). Hurunui/Kaikoura Earthquakes Emergency Relief Act 2016 (powers to vary valuation and rating provisions).

¹¹ Local Government Act 2002, s 10(1)(b). See K Palmer, at 15.8. Local Government Act 1974, ss 552-559 (repealed).

households and businesses”, it can be seriously argued that local authorities no longer have the legal power to provide or support the construction of housing as buildings.¹² It could be advanced as a matter of law that housing is not “local infrastructure” which is limited to the provision of water, sewage reticulation, and roading layout, for existing and new subdivisions.¹³

Further the provision of housing is not on any assessment a “local public service” that “is most cost effective for households and businesses”. It is a given that affordable housing and social housing, will require a subsidy, and local government would not regard this as cost effective for households and businesses which are expected to contribute to the subsidy through rates.¹⁴

If the proposed 2018 amendment to s 10(1)(b) is enacted by the present government (and that may remain in doubt), the question remains whether local authorities should be actively involved in promoting and funding subsidies for social housing.¹⁵ In respect of the existing social housing retained and maintained by local authorities, an ongoing issue is the extent to which central government should contribute through subsidies to this housing. It is acknowledged that through the accommodation supplement, as noted in the Issues Paper, central government does contribute in a practical way to supporting the rental and provision of social housing.

Further, the National Policy Statement on Urban Development Capacity 2016, provides and imposes an expectation and cost on local authorities to deliver adequate capacity for housing expansion and affordability. The cost on local authorities may be met in part by the development contributions which can be levied on the number of urban units authorised under the subdivisions or on the issue of a building consent.¹⁶ This may be sufficient to support the cost in a growing population in a location such as Auckland, but the matter may be more difficult in areas such as Queenstown or other districts where the local authority rating base is not viable in respect of major infrastructure expenditure.

Again, the uncertainty of government funding and ad hoc policy making by central government from the regional development fund, is not satisfactory for any planning under the long-term plan or even the annual plan. Greater consistency and clarity and transparency in policies from central government of its financial support in this area is highly desirable and necessary in coming through with recommendations on local government funding and financing. This issue is relevant to question 6 in the Issues Paper on the costs of regulatory creep.

Climate change and sea level rise

Climate change is raised as a matter under question 8. The author is aware of a number of situations around the New Zealand coastline where beachfront properties are subject to sea level rise, with the risk to the residents that the properties will be eroded and become uninhabitable. The lack of any comprehensive central government support on this matter, can only become more problematic in the future.

¹² Ibid, s 10(1)(b) (as amended 2012).

¹³ The term “local infrastructure” is not defined.

¹⁴ No legal challenge has been made on the interpretation of s 10 on the housing issue to date.

¹⁵ Local Government (Community Well-being) Amendment Bill 2018, cl 6.

¹⁶ Local Government Act 2002, ss 197-206.

The New Zealand Coastal Policy Statement 2010, policy 27, indicates that local authorities should not fund or consent to protective works for local residents where properties are at risk, unless some local infrastructure is at risk. However, that approach is not reasonable where long existing properties were approved by local authorities, before the Coastal Policy Statement was issued in 2010. The writer's view is that this is an area where central government should develop more comprehensive policies, in collaboration with local authorities. The Crown should offer financial support for remedial works and structures such as rock revetments, to prevent the loss of residential settlements. Historically, in the U.K., local authorities and the Crown in particular have a responsibility to assist communities to prevent loss of coastlines, in circumstances where the loss can be reasonably mitigated, and government should not disregard this cost burden for communities.¹⁷

Expansion of Local Government Responsibilities

Question 6, as noted, raises the issue of cost shifting onto local government. The promotion of affordable housing, maintenance of water quality and waste disposal, responsibilities under the Resource Management Act and the Building Act, all involve a cost shifting of central government regulatory and policing functions onto local authorities. These costs have generally been borne by the local authorities without any specific government subsidy or financial support. For example, the implementation of the proposed "National Planning Standards" under the RMA, will require a number of local authorities to amend and alter regional and district plans.¹⁸ This is a cost factor which will be borne by the local communities, without any financial support from central government for this obligation.

Comment on Other Questions

Non-Core Responsibilities – Questions 10, 11 and 12

To the extent that non-core responsibilities are undertaken by local authorities, it is legitimate to raise the question whether or not these functions should be taken on at all if there is inadequate financial support for the financing of the activities. On the other hand, if the vision of local authorities is to support community wellbeing, rather than the narrower vision imposed in 2012 to simply provide local infrastructure and local services, then it is legitimate for local authorities to venture into evolving areas, and to promote greater wellbeing in communities.

The writer makes no particular submission in respect of this matter, acknowledging that many of the present grants by local authorities for community groups, sporting groups, providing public reserves, supporting activities on roads and sea, provide for the wellbeing of both the communities and attract many tourists to the regions. The tourists and others do bring financial benefits which are undoubted. Regarding the rise in freedom camping, it is commendable that the present government has recognised the need and taken the initiative to fund the provision of improved toilet facilities and waste receptacles to assist local authorities in accommodating the visitors and economic benefits to regions.¹⁹

¹⁷ *Falkner v Gisborne District Council* [1995] 3 NZLR 622 (HC) at 630 (right to protect land subject to RMA rules). *Holbeck Hall Hotel Ltd v Scarborough Borough Council* [2000] QB 836 (measured duty of care owed by council to mitigate foreseeable land erosion).

¹⁸ Resource Management Act 1991, ss 58B-58K (5 year max implementation period). Ministry for the Environment, *Draft National Planning Standards Consultation Document*, ME 1363, Wellington, 2018.

¹⁹ Freedom Camping Act 2011. K Palmer, at 14.12.3.

If any issue does arise, perhaps the Audit Office should have a particular unit that look at the expenditure on non-core activities, where there appears to be waste and mismanagement in contracting, or in the nature of the activities. Generally, the local elections accountability and local news reports are sufficient to manage this area effectively.

Rates Rebate Scheme – Questions 26, 27

The author's view is that the rates rebate scheme has worked fairly and effectively for many years. If any question does arise, it is whether the present rebate of \$630, is inadequate having regard to the average yearly rate in many local authority districts. A more equitable system, would be to increase the rates rebate quantum in accordance with inflation and annual cost of living increases. Further, doubling the present rebate at this stage would appear to be a fairer outcome for the 98,000 beneficiaries, who presently obtain the rebate. This would be a transfer of cost to central government, which is consistent with the views expressed earlier, that higher funding or grants could be made in a number of areas such as roading provision, water supply infrastructure, and waste water infrastructure.

The rates rebate is a particular benefit in several situations. Firstly where the local authorities have a declining population or static population, yet are obliged to continue and fund the normal services and rising administrative costs of local authorities. In these areas, the rates may be relatively high in relation to property values and incomes, and the rebate would be greatly appreciated if it was doubled in amount. Secondly in growing population areas such as Auckland, Queenstown, and Tauranga, the increasing rates levied on high land values, do impact substantially on many persons who are retired and in the ageing population bracket, yet do not enjoy any significant increases in superannuation which could mitigate the increases in the property values and subsequent rating increases.

A strong recommendation is made that the existing rates rebate amount should be doubled to \$1,500, and progressively increased annually recognising cost of living adjustments.

Differential Rating – Questions 28, 31, 32, 33

It is the writer's view that the majority of councils are aware of the potential and use of the differential rating power, and do use that power effectively according to local circumstances. No recommendations are made as to any change to the statutory provisions. If anything, local authorities could share more widely, the opportunities available for better use of targeted rates, to deal with local situations and local development expectations. The adoption of Auckland City of a targeted rate in relation to hotel, motel and Air BnB accommodation providers, is a good example of the use of that power.

Regarding question 33, as noted, the author does not support any direction to shift from the capital value system to the land value system. The views of Roland O'Regan (1985) on the subject are not longer tenable.

Value Capture – Question 34

The writer's opinion is that endeavours to provide local authorities with a power to provide for value capture, is an area which should be avoided. The value capture is essentially related to capital gains, and this is a substantial matter for central government which it is presently addressing. Value capture could have a negative effect on local development, and duplicate

existing liability under tax law for property value trading and value increases. That area should be left exclusively to central government to manage as part of the income tax structure.

It is of note that proposals in the draft Auckland Unitary Plan to provide for value capture were not progressed and were certainly would have been rejected by the Hearings Panel as inappropriate. The Hearings Panel rejected the proposal for a percentage of affordable housing to be a condition of all large scale property developments. The writer believes that that decision was appropriate, and the provision and funding of affordable housing, is essentially a matter for central government which has the capacity to fund the development, or provide subsidies that will be necessary for affordable housing. The various options of equity sharing (used overseas), which are presently being introduced into the NZ market, should not be managed through direct local authority intervention. These mechanisms should be managed as part of the contractual conditions of development which can be offered by central government under the Kiwi Saver and other schemes.

Rates – Questions 35 and 36

As indicated, the writer's view is that the rating system has been long tried and found to be adequate for local authority funding, in conjunction with borrowing by local authorities, and the other systems of grants and revenue. As stated, it would be appropriate for central government to increase its commitment to funding infrastructure, in areas where councils do not have the capacity to fund the works, and in areas where high population growth requires central government assistance. This type of funding was explicit in the 1950s with the large scale state housing developments undertaken by the Ministry of Works and Development, without any hesitation as to the quantity of funding put in by central government. The promotion of public benefit and community wellbeing was not measured or limited by fiscal analysis.

Local Income and Expenditure Taxes – Question 41

As indicated, local authorities should not move into the area of local income and expenditure taxes, and clarity should remain between income taxes administered by central government, and revenue funding by local government through land rating and service charges.

Local Property Taxes – Question 42

The author considers a "local property tax" to be misleading, and that concept or terminology should not be further introduced. In reality, local authority rating, which represents a percentage of either the land value or capital value of the land, is a local property tax, and any other form or substitute would simply duplicate the present system. In the Auckland Council region, the new land values and rates based on the capital value system, reflect at large the underlying land value, and overall provide a fairer system in rating than any other system. There is no basis for reverting to a simple land value approach. This would greatly undervalue the occupation of the many high rise apartment buildings in strata title properties which have sea views and other benefits for the occupiers. These properties should not be undervalued and underrated by returning to a land value system. The choice of land value system in the mainly rural areas throughout New Zealand remains appropriate. In any event the imposition of a general rating levy, differential rates and targeted rates, evens up the variations in the systems. Each local authority has the capacity to tailor a different system if required. If anything, the largely redundant annual value system should be removed from the statute book.

Environmental taxes – Question 43

Environmental taxes are present in the metered charges for water applied by Watercare Services Ltd in the Auckland region, which include an add on substantial waste water disposal charge which funds the infrastructure and environmental compliance standards. Central government exercises the powers to impose charges on cigarette and alcohol sales, and petroleum sales, which are substantially environmental and public health charges. The author does not believe that local authorities should have or share these powers.

A charge on the taking of fresh water for commercial hydro-electricity use, drinking water export or municipal supplies, and land irrigation are matters presently before central government, and raise issues of Maori Treaty rights. This matter is beyond the scope of the Issues paper, and the question of local authority funding.

Private Financing – Question 47

The question raises the matter of private-public partnerships as a way to finance desirable infrastructure or projects. The author has an open mind on this issue and can see the value in a PPP approach. The mechanism was used to finance the Spark Arena on the waterfront in Auckland, and has provided a well-regarded entertainment centre for the city.

Further, the proposed use of a PPP arrangement for funding the Penlink highway development at the Whangaparaoa Peninsula, is a commendable advance. This highway has languished for the last 30 years, due to lack of local authority funding and lack of NZTA and Auckland Transport support. It has been urgently needed and if the PPP approach is the only way to get it off the ground, it is to be highly commended and promoted. The same approach could be made for a second harbour crossing in Auckland. The PPP approach has been used successfully in overseas countries.

Oversight of Local Government Funding and Financing – Question 49

As indicated, local authorities were given enhanced powers and expectations to promote community wellbeing in 2002. In general those powers have been appropriately used and have benefited many communities. Earlier, the right to a ratepayer poll on borrowing was deleted. However, the responsibility of the Audit Office, as the local authority auditor, has raised questions as to adequacy of performance by that office.

In 2002, it should have been made clear that complaints of over type of expenditure and wasteful expenditure and undesirable employment practices, could have been taken to the Audit Office for investigation, along the lines of a complaint to the Ombudsman. The allocation of this function between the Ombudsmen Office and the Auditor General has been wholly unsatisfactory. Greater clarity could improve the performance of local authorities. Also, the Audit Office should have a more vocal and visible role in guiding efficient and effective local government activities. This would provide support and assurance for greater central government contributions to local authority activities.

Conclusion

This submission has commented on the allocation of functions between central and local government in an historical context. Assuming that the present formal allocation is not open to change under the Issues paper, the actual sharing of the funding burden is a legitimate area for comment and recommendation. For example, existing sharing or shared support arrangements in relation to local authority roading, public transport, water supply, waste water treatment, housing provision, RMA and building administration, are all areas that lack any certainty of central government commitment. Recent ad hoc grants from central government to local government have been positive in the short term. More assured commitments are necessary for the future.

The ability of local government to fine tune and apply the existing powers of land rating and borrowing are limited, and are unlikely to provide any enduring solution to the matters raised by the Minister in the referral to the Productivity Commission.

Dr Kenneth Palmer
Research Fellow
School of Law
The University of Auckland
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Email: ka.palmer@auckland.ac.nz
Phone: 09 9237828

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