Local government funding and financing Draft Report

Tasman District Council Submission to the New Zealand Productivity Commission August 2019

INTRODUCTION

Tasman District Council (the Council) welcomes the opportunity to make a submission on the Local Government Funding and Financing Draft Report.

The Commission has carried out wide ranging review of the funding and financing on local government within the limits set by its terms of reference. We welcome the broad finding (F6.4) that t*he current main funding tools of local government in New Zealand measure up well against the principles of appropriateness for local government use, coherence, and the stability and predictability of revenue.*

The Commission has considered a number of factors that are putting pressure on local government funding in its draft report. The ageing of the population (and associated proportion of the population on fixed incomes) is highlighted with Tasman being listed as the Council with the second highest projected proportion of population 65 years or older in 2043 (Figure 4.1). The Commission's report also discusses the funding and financing pressures of growth, tourism and climate change. It considers that the existing funding mechanisms are not adequate to meet the pressures from these factors and recommends adjustments to funding arrangements for each one.

Whilst not one of the councils most affected by anyone one of these factors, all of them significantly affect the Tasman District. The cumulative and combined impact of all of these factors has a major effect on Council's finances now and in the future. The Commission should not lose sight of the combined impact that the different factors is having on some councils.

The Council is aware of the submission prepared by the Society of Local Government Managers (SOLGM) and Local Government New Zealand (LGNZ), representing the views of the Local Government sector as a whole. We generally support the comments and suggestions made in these submissions, although on some issues, as detailed in this submission, the Council holds a different view to that expressed by SOLGM and LGNZ. In response to some recommendations, we have specifically noted our support for the views expressed by either SOLGM or LGNZ.

Response to Questions and Draft Recommendations

3. Trends in local government revenue, expenditure, prices and debt

Q3.1 Is the current methodology for preparing the Local Government Cost Index sufficient for forecasting the prices that local authorities are likely to face? If not, should the methodology be improved, such as by one or more of:

- carrying out more frequent reweighting;
- including output indices; and
- disaggregating by council type?

Tasman District Council Response:

We currently use the SOLGM/BERL adjustors for forecasting the prices that we are likely to face. We find this a better index than the Local Government Cost index because it is more robust and is more granular (with five or six categories). We believe there are opportunities to refine the Local Government Cost Index methodology. We are unsure how output indices can be effectively used to improve the Local Government Cost Index.

4. Pressures on funding and financing

Q4.1 To what extent are Treaty related costs associated with fulfilling the obligations and requirements of local government statutes 'business as usual' for Councils? And to what extend should they be considered costs incurred to fulfil obligations on behalf of the Crown under the Treaty of Waitangi?

Tasman District Council Response:

With the Te Tau Ihu Treaty Settlement in place, and iwi trusts gearing up to have greater input into Council processes, more obligations are being placed on Council to be a better Treaty partner. Iwi do not distinguish between local government and government, so see councils as having the same obligations as the Crown.

Government is giving strong signals about expectations of co-governance with iwi, but this has not been reflected in changes in legislation. The result is that Local Government has been left to manage the tension, in terms of the costs and public perception, without Central Government enabling Local Government in any way.

At Tasman District, we currently spend a lot of time fulfilling our local government statutory requirements, but we are being impacted by and drawn into more Treaty of Waitangi (TOW) issues. We are embracing and responding to this willingness to engage by iwi, but it is taking significant time and resources as we navigate this area. The complexity of decision making and time involved increases exponentially when the number of parties involved is increased.

We lack sufficient in-house expertise and knowledge to work with iwi in a manner which is required. To attempt to bridge the gap for both local government and TOW matters, we are currently looking to recruit a Kaihautu officer, but more is required. Our view is that the need to engage and involve iwi further in council business will only grow over time with more TOW expectations placed on councils.

Under the section 81(1)(b) of the Local Government Act 2002 a local authority must consider ways in which it may foster the development of Maori capacity to contribute to the decision making processes of the local authority. In many cases, this is manifesting itself in an expectation from iwi that local authorities reimburse the costs of iwi staff participating in engagement and consultation processes. In this respect, we believe that Treaty related costs should be considered costs incurred by local authorities on behalf of the Crown. We think that Central Government should consider a mechanism for funding iwi directly to enable them to participate in Local Government engagement and consultation processes as part of the Crown honouring its obligations under the Treaty.

5. Improving Decision Making

Q5.1 The Commission is seeking more information on the advantages and disadvantages of reducing the frequency of the Long Term Plan (LTP) reviews, while retaining the requirement for annual plans. What would be the benefits, costs and risks of reducing the frequency of LTPs, from every three years to every five? What if five years were a minimum, and local authorities were free to prepare LTPs more frequently if they wished?

Tasman District Council Response:

This Council invests significant time and resources into preparing its LTP. At present planning for the LTP begins two years prior to its adoption. As Tasman is a unitary authority, the project involves

many of the staff across the business and as the LTP is a 10 year plan, we undertake detailed planning for at least the first five years.

Decreasing the frequency of the LTP would have a beneficial impact on reducing the significant resources that we invest in compiling our LTPs. However, we do not support the extension of the period between LTPs to five years. This time period is likely to generate the need to consult on changes through the Annual Plan (particularly in years four and five) and increases the likelihood of needing to carry out LTP amendments. Since the changes to the Local Government Act we have not made significant or material changes to our planned programme or budgets and have not consulted on our Annual Plan in years 2 and 3 of an LTP. The degree and pace of change in the environment makes it difficult to predict with a high degree of accuracy for as much as five years forward. We are concerned that the resources necessary to carry out more consultations on Annual Plans and LTP amendments as a result of a five yearly frequency for the LTP will more than outweigh any savings from the reduced LTP frequency.

A five yearly LTP frequency and a three or four year election cycle could mean that some councillors would have no ability to participate in a LTP and see its implementation commence. This could lead to Councillors having little or no opportunity to influence the direction of their community without having to prepare an expensive LTP amendment.

We could support moving to a four yearly LTP period provided it aligned with a four yearly election cycle. We think the connection to the election cycle is important to enable new councillors coming into a council to be able to influence the future through the adoption of a new LTP and to be able to see the implementation commence during their term. It is not possible to prepare to consult on a LTP within four to five months of an election. Rather this preparation takes approximately 16-17 months making aligned four-year terms for both local body elections and LTPs a good option, which could result in significant financial savings for Local Government.

Q5.2 Is it appropriate for local authorities to include an adjustment for anticipated price inflation when they set rates each year? If not, what disciplines could be applied to the rate-setting process to encourage local authorities to seek to manage cost and price pressures through productivity improvements? What would be the benefits and drawbacks of such an approach?

Tasman District Council Response:

It is appropriate for local authorities to include an adjustment for anticipated price inflation when they set rates. Council is always looking for improvements to productivity. However, external price pressures are not something that can be managed by Council.

If local authorities are not able to include an adjustment for anticipated price inflation when they set rates, there is a risk that local authorities merely adjust the costs in their base budgeting which are then used as a basis for setting rates (i.e. game the system to achieve a similar outcome).

Q5.3 Would establishing a capital charge for local authorities be an effective way of incentivising good asset management? What would be the advantages and disadvantages? Are there other, more effective ways of encouraging better asset management practices in local government?

Tasman District Council Response:

Unlike Central Government departments, councils do not have a separate central owner/funder. Councils are required to pay loan interest and pay back the principle of borrowing. Council also wholly or partly funds depreciation, which can be considered to be a proxy for a capital charge. As a result, there is already an incentive for good asset management with the cost of capital being part of the overall costs for councils.

Introducing an additional capital charge would dis-incentivise councils for investing in a number of infrastructure and community assets that act to assist the achievement of central government goals e.g. affordable housing. In addition, the idea raises a number of questions, such as who would

receive the capital charge and on what basis and how would the funds from the capital charge be applied?

For example, would a targeted rate on a particular water scheme with a small defined set of customers pay its capital charge to the Council, offsetting the need for general rates? We are unsure how this would encourage or produce the productivity improvements hoped for by the Commission. Nor how it complies with the requirement for targeted rates to be applied for the purpose for which is was raised – a key feature of rating that tries to align the rating system with the beneficiaries of the service.

R5.1 DIA, LGNZ and SOLGM should work together to improve basic governance, including financial governance, skills and knowledge across elected members. In undertaking this work they should consider a range of mechanisms such as formal training, peer support, mentoring, networking and sharing of resources and best practice; and a variety of delivery platforms. LGNZ should ensure resources are well evaluated.

Tasman District Council Response:

We agree with and support the submission from LGNZ in regards basic governance training in Local Government.

R5.2 LGNZ should work to achieve greater participation in ongoing professional development by elected members, including new and existing members, to ensure skills and knowledge are built and refreshed.

Tasman District Council Response:

We note that significant professional development is provided for elected members. We have noted the Resource Management Act training *Making Good Decisions* has had benefits for Local Government Act and other decision making processes.

R5.3 The Local Government Act should be amended to require all local authorities to have and Audit and Risk Committee (or equivalent means of providing assurance). The Committee should have an independent chair and ideally include at least one other external expert to ensure that the necessary skills and experience. Independent members should be appropriately skilled and qualified. Committees should draw on the good practice guidance and resources that are available to develop and run their committees.

Tasman District Council Response:

We agree that a skilled independent chair would be beneficial to the functioning of an Audit and Risk Committee. We currently have a skilled and experienced independent member on our Audit and Risk Committee and find that he provides good value in enhancing our processes.

The inclusion of a requirement for a further independent member must be weighed up in terms of cost to the community against the value they could add. On balance, we believe that a second independent member would be beneficial. However, we are concerned that the pool of appropriately knowledgeable and experienced individuals may be small making it difficult for all councils to recruit two independent members to their committees.

R5.4 The local government reporting framework (including the financial disclosures, FIS, and performance measures for service delivery) should be subject to a fundamental first principles review. This review would be undertaken by a working group led by DIA, the External Reporting Board and representatives of the local government sector and information users. The Auditor-General would be consulted.

Tasman District Council Response:

We acknowledge that there is scope to improve the local government reporting framework. However, we do not feel that the system is fundamentally broken and consider that continued incremental improvement is required, rather than a fundamental, first principles review.

R5.5 DIA, LGNZ and SOLGM should work together to promote and encourage council participation in existing performance review and improvement initiatives such as CouncilMARK and the Australasian Performance Excellence Programme. The emphasis should be on learning for continuous improvement rather than as a one-off exercise, and include efforts to boost public awareness to increase demand for their use.

Tasman District Council Response:

We consider that benchmarking has a role to play in improving the learning and performance of councils. However, we note the diversity of councils in terms of their size, type and circumstances. This can make comparing apples with apples difficult for unitary authorities in particular. Benchmarking has more potential at an activity level (where the activities cover similar services) than at a Council as a whole level.

R5.6 The legislated information requirements for consultation processes should be amended to clarity that consultation documents should describe the reasonably practicable options and include high level information on rates and future levels of service for each option. Terminology on the analysis of options should be consistent across the Act.

Tasman District Council Response:

The LGA 2002 already requires councils to identify all reasonably practicable options (Part 6 Section 77). Consulting on options, including overall high level cost implications, is good practice where practicable. However, in some circumstances it is impracticable.

In some cases, there can be numerous practicable options. Presenting and information on the rates and future level of service for all reasonably practicable options may be onerous to prepare and confusing for the public to understand. Councils should be able to present information on the rates and future level of service for the main practicable options and not be at risk of legal challenge for not presenting this information for more peripheral options.

R5.7 The LGA should be revised to clarify and streamline the required contents of LTPs so as to reduce duplication, ease compliance costs on councils and help make them more accessible.

Tasman District Council Response:

We believe that the content of the LTP could be streamlined to reduce duplication, ease compliance costs and help make the LTP more accessible to the community.

R5.8 Audit should not be considered a substitute for internal QA, which should exist across the whole LTP process, including the use of expert review.

Tasman District Council Response:

We currently employ a range of QA processes during the LTP process and do not rely on audit as a substitute for internal QA. It is possible that in some smaller councils audit is used in this way. The use of experts review should be something councils can choose to apply as required to support their internal quality assurance processes and not something that is a requirement in specific circumstances.

6. Future Funding and Financing Arrangements

Q6.1 How desirable and useful would a tax on vacant residential land be a mechanism to improve the supply of housing for New Zealanders? How would such a tax measure up against the principles of a good system of local government funding and financing?

Tasman District Council Response:

Councils already have the tools to apply differential rates to vacant residential land. However, we find using these tools on vacant residential land difficult to justify to the community. We understand that the Commission is suggesting this mechanism as a means to discourage land banking. However, we are concerned that it would capture land which is legitimately vacant as well as that which is being land banked. While the current rating roll for each territorial authority does categorise vacant land, it would need to be more fine-grained for taxing purposes.

In the scenario here in Tasman and in a number of other centres where urban intensification is being enabled and encouraged, would taxing land zoned for intensive development but not being used for its most productive purpose mean taxing lower density properties in these areas too? If so, that creates a complex and resource intensive system to justify which properties get taxed more heavily. If not, then we are tilting the balance in favour of greenfield development, contrary to the government's (and many councils') ambition to encourage intensification.

We think that the Commission and Central Government should consider other mechanisms to discourage land banking.

Q6.2 What would be the advantages and disadvantages of a system of payments to territorial authorities based on new building work put in place in each territorial local authority? What would be the best design for such a mechanism? Would it be effective in incentivising councils to keep the supply of consented land (greenfield and brownfield) and local infrastructure responsive to growth pressures?

Tasman District Council Response:

A system of payments to territorial authorities based on new building work put in place could act as a good incentive for councils to invest in growth related infrastructure. You will note our objection to the crown exemption to rates and development contribution elsewhere in this submission. Such a scheme would go some way addressing the loss of funding that this exemption creates, in a manner that provides an incentive for how these funds are applied in line with government ambitions for housing affordability.

The system would need to be transparent and automated as much as possible, with councils having certainty about how much they would receive in payments in proportion to the amount of development achieved. An automated systems would help to reduce administration costs and avoid the need to complete an application which would remove a barrier for councils to participate. The rate of payment could be on a pro-rata basis to the value or area of new building work and should utilise metrics, which are already collected and readily auditable.

We consider that such a system if implemented should be for residential development only, as the development of one or two large scale warehouses or other similar development could skew the amount of funding received by a council for commercial development. Moreover, we understand the Government and Commission's focus is on residential development, not commercial. Understandably, investing in infrastructure for commercial and economic development is a more straightforward political proposition.

The interaction of this proposed funding and development contributions charges needs clarity. Would the payments replace some development contributions charges payable by a developer (i.e. councils would receive less development contributions from the developer that would be offset by the payments from Central Government)? If so, the incentivising impact of the scheme on council's may be somewhat diminished. It would also result in Central Government effectively subsiding developments through these payments. An alternative would be that the payments based on new building work could be shared between growth funding (offsetting development contributions) and general revenues to create the political incentive to territorial local authorities the Commission is hoping to create.

There may be a small minority of councils where there has been little or no growth in previous years where the incentive would not apply. Possibly a supplementary, application scheme could enable the incentive to be extended to these situations as well.

R6.1 The Government, LGNZ and SOLGM should work together to develop standardised development contributions policies and council assessments of development contributions charges for individual developments. Councils should be required to use these templates.

Tasman District Council Response:

We see merit in the commonality and consistency in the structure of development contributions policies and information material across councils to assist those developing properties in more than one territorial authority area. However, given the wide range of different size of councils, catchments and the complexities of the various development contribution policies, we do not consider that mandatory standardised templates are workable. Some standardised templates available for use on a voluntary or 'opt in' basis may have some benefits, particularly for smaller councils with limited expertise and capacity in this area.

Mandatory use of such a policy is strongly opposed. Regardless of the best efforts of those drafting the templates, we consider that the legal risk the sector would be exposed to would be unreasonably high if there was a flaw in the template used discovered via an objections process or judicial review. If it is a mandatory template, councils would have to wait for it to change (by whatever process that would be) and then run through their adoption process before the risk was addressed.

The Government could help reduce the complexity of the policies by working with the sector to review the legislation with the purpose of eliminating requirements that add no value for either councils or the development community. This would help enable more user/developer friendly policies. We understand several such amendments have been proposed by the Development Contributions Working Group in the past, but as yet have not been taken up by government. Finally, we are concerned that the Crown is exempt from paying development contributions for its developments. This means that rate payers in the local area are required to fund the new infrastructure to support any Government developments, whether or not they benefit from those developments.

R6.2 While local authorities' general approach to depreciating their infrastructure assets is satisfactory, three issues are of concern and may require action:

- Council decisions about the use of cash that 'depreciation funding' can give rise to should be part of formulating their wider financial and infrastructure strategies.
- Councils should prioritise improving their knowledge of the condition and performance of their assets.
- The Essential services benchmark should be reviewed as part of the wider review. Any review should avoid the implication that individual councils must invest as much in renewals each year as their depreciation expense.

Tasman District Council Response:

We agree with all three parts of this recommendation.

R6.3 In choosing amongst funding tools councils should emphasise the benefit principle and efficiency in the first instance. They should also balance greater economic efficiency against lower compliance and administration costs. Councils should factor any significant concerns about ability to pay at a second stage.

Tasman District Council Response:

We consider that clause 101(3) of the Local Government Act 2002 already requires the application of the benefit principle and whether there are clearly identifiable exacerbators that require an activity to be undertaken. Similarly, this clause also requires consideration of efficiency in selecting funding tools and a consideration of the community's ability to pay (via considering the current and future social, economic, environmental and cultural well-being of the community). Implicit in this last consideration is the concept of cross-subsidisation to improve affordability and community well-being.

The Crown is currently excluded from the application of the benefit principle in its exemption from paying rates. Whilst we acknowledge this is outside the scope of the Commission's review, we would like to take the opportunity to highlight this issue and advocate for the Crown to pay an appropriate level of rates. This is particularly an issue for councils in which the Crown has large land holdings. Approximately 66% of Tasman District's land area in managed by the Department of Conservation alone, without considering other Crown land.

Enhancing the emphasis on the benefit principle, at the expense of some of the other considerations, is potentially counter to the directions arising from the Government's review of the three waters.

R6.4 The Government should consider implementing a system of payments to TAs based on new building work put in place in each TA, to incentivise councils to increase the supply of infrastructure-serviced land.

Tasman District Council Response:

Please see our response to question 6.2.

R6.5 The Government should direct officials to continue to work on expending the use of Special Purpose Vehicles to finance investment in growth councils that face debt limits. If needed the Government should promote legislation to enable the placement of debt servicing obligations on existing residents who will benefit.

Tasman District Council Response:

We are supportive of continued work on Special Purpose Vehicles in principle. Their application is probably most appropriate to very large developments, undertaken by a small number of owners, and where the infrastructure required is largely 'stand alone'. Its applicability to most other developments and associated infrastructure seems limited. These often involve smaller incremental changes to existing network infrastructure over time for many smaller developments owned by many parties

In addition, Special Purpose Vehicles are unlikely to be an appropriate tool for most councils (such as Tasman District Council) that are not close to their LGFA or Local Government (Financial Reporting and Prudence) 2014 limits. A council's borrowing is usually constrained by limits to debt and rates increases established by the Mayor and councillors, rather than these external limits.

R6.6 In its review of three waters the Government should favour models capable of applying efficient scale and specialisation to help small communities to meet the challenges of maintaining and upgrading three waters infrastructure.

Tasman District Council Response:

We agree with the submission made by LGNZ on this recommendation. In addition, we make the following comments.

We support the options outlined for drinking water compliance in the *Rural Agricultural Drinking Water Guidelines 2015* for rural/agricultural water supply schemes, whereby each residence on a rural water supply scheme is treated as a single household self-supplier, despite the fact it is

connected to a public water supply scheme. We support this to be an ongoing option and not removed from legislation as part of future changes to the DWSNZ, which has been indicated as a possibility in the Three Waters DIA review[1]. This would negate the need to treat the water to a drinking water standard when 75% or more of the water supplied is used for stock water or agricultural purposes. This means each household would be responsible for treating their own drinking water to the required standard. This could be enforced through the Building Act.

We support the concept of including small community water supply schemes into a single "water club" for a district to spread the burden of upgrade, operations and maintenance costs for smaller community water schemes. Tasman District Council currently takes this approach. If we did not take this approach, many of our smaller communities would not be able to afford the upgrades of their water schemes to meet the drinking water standards.

R6.7 The Government should legislate to enable councils in tourist centres to choose to implement bed taxes to recover the tourism induced costs of providing local mixed-use facilities. Councils in these centres should also make more use of user pays for these facilities where possible.

Tasman District Council Response:

Tasman District Council has previous used its rating powers to target rate accommodation providers to try to meet the cost of funding tourism related activity. However, we have dispensed with this system because it was not possible to be fair to all those parties who provided tourism accommodation and it was administratively difficult to apply. In particular where a Resource Consent or a building type (e.g. motel) not already identified in the rating system is the basis of the charge.

We consider that a tourism accommodation levy does not meet the principles established for funding and financing instruments for local government noted by the Commission in 6.1. In particular, it would not be efficient, in that the compliance and administration costs would not be reasonably simple. It would also not be fair and equitable to only apply the levy to tourism accommodation providers that we could identify and not to other businesses that benefit from visitors.

There are many informal visitor accommodation providers in the Tasman District via platforms such as Air B'n'B, as well as some of the holiday homes in some locations. Except for their listing on the internet in all other respects, they are just normal domestic dwellings. Separating these out from permanently lived in dwellings is not easy and would be very labour intensive. In addition, the circumstances of many of these informal accommodation providers can change at short notice whilst their rating assessment takes place at one point in time each year. This could lead to significant mismatches between the person's circumstances and the basis on which they are being charged.

One of the challenges we had in equitably applying a tourism related rate was identifying commercial operations that benefited from the visitor industry. Motels and hotels are an obvious category but there are a wide range of commercial operations that benefit from visitors to the District, including transport companies, tour companies, hospitality venues and retail outlets. We do not consider it appropriate to only apply a tourism levy to accommodation providers.

In our view, the recently introduced Government international visitor levy is a fairer way to target the impact from overseas visitors. We accept it does not deal with the impact of domestic visitors. In a submission to the Ministry of Business Innovation and Employment on the International Visitor Conservation and Tourism Levy in July 2018, we advocated that a share of the levy be allocated directly to local councils based on international visitor spend.

[1] Cabinet paper, minutes, and a Regulatory Impact Assessment entitled 'Strengthening the regulation of drinking water, wastewater and stormwater".

R6.8 The Government should use part of the revenues from the International Visitor Levy responsible for small tourism hotspots that cannot reasonably recover all of their operating costs of providing mixed-use facilities from user charges or bed taxes.

Tasman District Council Response:

We support the allocation of a portion of the international visitor levy to small tourism hotspots as part of the more general allocation of funding from this levy to councils providing infrastructure to meet the needs of visitors.

R6.9 The benefit principle and maintaining the integrity of local government autonomy should guide the funding of local government activities. This implies central government should generally limit its funding of local government to where there are national benefits.

Central government should not expect local government to act as its regulatory agent – the two levels of government should seek a regulatory partnership based on mutual respect and an agreed protocol.

Tasman District Council Response:

We support the views expressed by LGNZ in response to this recommendation.

We question whether there are many regulations administered by Local Government that don't have some element of national benefit.

It should be noted that in some circumstances Local Government is exposed to uncapped liability through its role in administering regulations developed by Central Government. Building Control regulations are a case in point. We are seeing our insurance cost rise substantially (or being unavailable) as Council is often the last man standing so becomes a typical target for litigation. The commercial reality is that council will need to spend substantial sums defending itself. These costs are unrecoverable from other parties and exposes general ratepayers to a significant additional rates burden. Under these circumstances it difficult to implement a more risk moderated decision making process.

R6.10 Central and local government should strive to achieve a more constructive relationship and effective interface through:

- input into policy-making processes
- central government engaging in a meaningful dialogue with local government early on in the process of developing new regulations
- cooperative approaches to tackling problems while implementing relevant new legislation, regulations or environmental standards
- the creation of formal and informal feedback loops to identify problems as they appear and the spread of information through the system and the sharing of expertise and knowledge.

Tasman District Council Response:

We support central and local government working more closely together to improve their relationship. Mutual respect and agreed protocols could come out of recognised training and qualifications being consistent across all regulatory bodies e.g. the G Reg initiative.

We note that some Central Government processes that Local Government is required to comply with are very inefficient. Local Government officers input into Central Government legislation and regulation could greatly reduce the practical problems being experienced by council when implementing this regulation, leading to improved efficiency and outcomes.

7. Equity and Affordability

R7.1 The Rating Act should be amended to remove rates differentials and the UAGC. Councils should have five years to implement their removal.

Tasman District Council Response:

We do not agree with the recommendation that rates differentials and the uniform annual general charge be removed from the Local Government (Rating) Act 2002.

We currently do not apply differentials to general rates. However, one of the uses of differentials on targeted rates is to reflect different benefits provided from the same service. Removing the ability to use differentials would make it more difficult to apply the beneficiary pays principle identified by the Commission in the principles for funding and financing in 6.1 and is supported by the Commission in recommendation 6.3.

The uniform annual general charge can be used as a tool to adjust the impact of rates for ratepayers' and their ability to pay. This approach helps give effect to section 101(3)(b) of the Local Government Act 2002. The Commission has recommended that ability to pay be a second stage in a council's decision making in Recommendation 6.3. The uniform annual general charge is an important way in which councils can adjust the incidence of rates for the ability to pay.

Where Councils are making significant changes to rating policy a period longer than five years may be needed to enable ratepayers to transition to the new rates incidence.

R7.2 The LGA should be amended to require councils to:

- match the burden of rates to benefits of councils services as a first step in setting rates
- consider ability to pay
- set out the reasons for their rating decisions in a clear and transparent manner and
- when applying the ability to pay principle, consider coherence and consistency with the income redistribution policies to those of central government.

Tasman District Council Response:

Please see our response to recommendation 6.3.

R7.3 LGNZ and SOLGM should develop advice for councils on applying the benefit principle in their rating decisions.

Tasman District Council Response:

There is sufficient advice currently available to councils on applying the benefit principle in their rating decisions. If the legislation is to change with regards to the application of the benefit principle, further advice provided by LGNZ and SOLGM may well be beneficial.

R7.4 The statutory cap on uniform charging should be removed.

Tasman District Council Response:

We consider that a statutory cap on uniform charging is a useful constraint to councils in weighing up the balance between progressive and regressive rates. We further consider that 30% is an arbitrary but reasonable level to set the cap at.

R7.5 The Government should work with the sector and providers to develop and implement a National Rates Postponement Scheme.

Tasman District Council Response:

Tasman District Council does not currently have a rates postponement scheme because the results of our survey of other councils found that they tended to be expensive and have a very low uptake.

We do not accept that on its own a National Rates Postponement Scheme is a solution to a rates affordability for older people on fixed incomes. However, such a scheme may be beneficial if it can be delivered in a cost effective manner. For many people using a commercially provided reverse mortgage product may be more flexible and advantageous than entering a rates postponement scheme.

R7.6 The Government should phase out the Rates Rebate Scheme to coincide with the National Rates Postponement Scheme.

Tasman District Council Response:

We strongly disagree with the recommendation to phase out the rates rebate scheme over five years without a viable alternative that can assist those who have come to rely on the program. We support SOLGM's response to this recommendation that a scheme to provide assistance for low income parties should be retained. In our District, nearly 8% of rating units received rebates in the year. At only $12 per week for the maximum rebate, this is not material to central government, but can be very material to individual ratepayers. We support a review of whether there can be more efficient mechanisms for achieving similar outcomes with lower administration costs.

8. Adapting to Climate Change

Q8.1 What legal options exist for placing a condition on land use consents that would make a voluntary assumption of risk by a current owner (and any person or entity who later becomes the owner) enforceable in all future circumstances?

Tasman District Council Response:

We support the development of a legal mechanism to help manage councils' liability on a proportional basis with the property owner. A notice on the property title could be explored as one option. Any mechanism of this sort would need to be explicit to the property owner (and transfer to new property owners) to avoid any confusion about the level of their liability.

It is important to note that any legal mechanism of this sort would need to apply not just to land use consents but all resource and building consents.

R8.1 The Government and local government should work together to establish centres of knowledge and guidance about climate adaptation. One should be an up to date source of advice on science and data while another should provide advice on policy, planning, risk management, legal issues and engagement.

Tasman District Council Response:

We consider that it is important that there is some nationally prescribed science that all councils can be apply to mitigate the risk of individual councils being required to defend the science on which they are basing their policies and planning in court. It is expensive for individual councils to seek legal advice on climate change matters and to defend decisions based on science in court. National standards which councils could apply will help reduce the need for legal advice and the risk of legal challenges to council decisions.

R8.2 The Government should review existing legislation and policy to ensure that considerations about climate-change adaptation are integrated and aligned within legislation and policy.

Tasman District Council Response:

We support this recommendation. The sooner legislation and policy is integrated and aligned in relation to climate change the better. We consider that representatives from Local Government should participate in this review.

R8.3 National and local authorities should adopt flexible and anticipatory approaches to adaptation – any funding should be conditional on the use of such approaches.

Tasman District Council Response:

We support this recommendation

R8.4 The Government should provide legal frameworks that give councils more backing to make land use and investment decisions that are appropriate to constantly changing climate risks.

Tasman District Council Response:

The tools available to councils to make land use and investment decisions that are appropriate to changing climate change risks are inadequate. Consequently, we support Government providing these legal frameworks to assist councils further in responding to climate change risk.

R8.5 The Government should extend the NZTA's role in co- funding local roads to include assistance to councils facing significant threats to the viability of local land transport infrastructure from sea-level rise and more intense storms and flooding due to climate change. The amount of assistance should reflect the size of the threat and each council's rating capacity. Assistance should be conditional on a strong business case and meeting engineering and environmental quality standards. It should only be available to defend existing infrastructure when business cases indicate this option is superior to other options by a significant margin.

Tasman District Council Response:

We assume this means a higher Funding Assistance Rate (FAR) for these types of works, given NZTA is already our co-funder. If so, we support this proposal. Higher co-funding transport assets under threat from climate change probably means greater investment will be required beyond what is presently in the National Land Transport Fund (i.e. Central Government will need to increase the funding level to make this work). We would not want to see the NZTA investment in other parts of the transport system reduce to enable this extension to take place.

R8.6 The Government should create a new agency and a local government resilience fund. The agency should work with at- risk councils and co-fund the redesign and possible relocation and rebuilding of wastewater and stormwater infrastructure when it is no longer viable.

The new agency should assist regional councils and communities to work out the best way to lessen flood risks from rivers. This could include moving to a new, more sustainable and best-practice paradigm of giving rivers room and developing multiple innovative uses of river corridors.

Tasman District Council Response:

We support the recommendation that Central Government provide resiliency funding to support councils in helping communities adapt to climate change. It is not clear from the Commission's report why the recommendation covers stormwater and wastewater infrastructure but does not extend to drinking water infrastructure. We would like to see any resilience funding cover drinking water infrastructure in addition to the stormwater and wastewater infrastructure.

It is important that a number of funding and other arrangements can operate in a coordinated way to enable coherent climate change adaptation. To this end, we would like to see any funding schemes consolidated. To enable a particular community to respond to climate change threat by relocating, for instance, it may be that we need to utilise an urban development agency to purchase and develop land and access funding for a range of infrastructure. The institutional arrangements should facilitate this not act as a barrier.

FURTHER COMMENTS

Tasman District Council 1

We recommend that Central Government reviews the pieces of legislation under which local government operates to align and modernise them to enable them to operate together in an administrative efficiency way.

In order to promote legislative efficiency and coordination there is a need to align and modernise a number of pieces of legislation so that they operate with one another in an effective manner. We are required to operate various parts of our business under these different statutes and find that significant inefficiencies arise when working with them together. In particular this applies to the Local Government Act 2002, the Local Government Rating Act (2002), the Commerce Act 1986, Reserves Act 1977 and the Credit Contracts and Consumer Finance Act (2003).

Tasman District Council 2

Local Government would benefit from further tools to operate on modern treasury principles and improve councils' flexibility. Some aspects of the Local Government Rating Act (2002) assume that council takes term loans with fixed term and interest rate to fund specific capital projects. That translates to fixed capital targeted rates for the life of the loan. Councils now fund their balance sheet as a whole. There is therefore no direct link between the borrowing and the capital project. That's means that requiring a one off decision by the rate payer to either accept the capital rate for (say for 20 years) or make an up-front payment is no longer appropriate. There needs to be an option for the rate payer to pay the remaining capital charge at any time. We would see this often occurring if there is a change of property ownership.

Tasman District Council 3

The Draft Report makes reference to user charges as a means of getting the beneficiary of service to pay for it. There is a vast variety of systems set in place for establishing such charging regimes for regulatory functions administered by Local Government. Some statutes require the use of a Special Consultative Procedure (e.g. Resource Management Act, Land Transport Management Act), some have no procedure except a resolution of Council (e.g. Building Act), while others are set by statutory regulation (e.g. Amusement Device Regulations 1978, Sale & Supply of Alcohol Regulations). We think that the Commission should make recommendations to have a common process for setting most user charges for Local Government activities, one which is administratively efficient and fair, with appropriate checks and balances.

The primary exception (which should sit outside a consolidated, consistent process) is when Local Government is setting charges for commercial related activities (e.g. camp ground charges, pensioner housing rents). Councils should be able to set these charges in the same manner as other commercial operators.

Tasman District Council 4

We note that the Draft Report does not consider the rateability of sea space where such space where private interests use this space for the exclusive occupation. At the moment, the law precludes the rating of sea space unless covered by way of a lease or licence. However, with the introduction of the Marine and Coastal Area (Takutai Moana) Act 2011, where nobody now owns the foreshore and seabed, activities which are the subject of resource consent (which is not a lease or licence) but provides for exclusive occupation, should be able to be rated. The extensive developments in marine farming off the districts coast is giving rise to equity issues where 'land' based farmers are rated but 'marine' based farmers are not. A capital value basis for such a rate would be workable. We think this should be an affirmative recommendation from the Commission.

Please note that due to scheduling issues this submission has not yet been approved by Council and should be considered as pro forma.

Yours sincerely

Janine Dowding
Chief Executive Office