

27 August 2019

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NZ Productivity Commission
PO Box 8036
The Terrace
Wellington 6143

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Dear Sir/Madam

LOCAL GOVERNMENT FUNDING AND FINANCING

Please find attached Waipa District Council's submission on the Local Government Funding and Financing draft report, which was adopted by Council at their meeting on 27 August 2019.

Should the Commission require clarification on any points raised, or additional information, please contact me at garry.dyet@waipadc.govt.nz or (07) 872 0043.

Yours sincerely



Garry Dyet
CHIEF EXECUTIVE

Encl: Waipa District Council's submission on the Local Government Funding and Financing draft report

NEW ZEALAND PRODUCTIVITY COMMISSION

LOCAL GOVERNMENT FUNDING AND FINANCING INQUIRY

Waipa District Council welcomes the opportunity to comment on the Productivity Commission's draft report and congratulates the Commission on its well-considered discussion, findings and recommendations.

This submission is structured in two parts; Part A provides commentary on the nine questions the Commission has posed while Part B contains commentary on specific issues Waipa District Council has a particular view on.

PART A – QUESTIONS

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?

Waipa District Council submission

The Local Government Cost Index (LGCI) is a price index which reflects that costs faced by local government are different from the basket of costs that make up the Consumer Price Index (CPI). It is an important forecasting tool used by Councils to project future costs in the long term planning (LTP) cycle. The LGCI is widely used by local authorities, however if an alternative methodology is available, with demonstrable advantages, it is incumbent on local authorities to ensure that this index is used. In this case the proposed 'Sapere index' is considered to have the following advantages:

- Ease of construction and updating. This allows for more frequent reweighting, which should improve the accuracy of the forecasting.
- Conceptual soundness (in particular minimising the overstatement of "true" inflation owing to quality and substitution bias);
- Usefulness – the index is timely and is clear and understandable;
- Ability to be adapted to create sub-indices for individual councils or clusters of similar councils. This is important, because different clusters of Councils have different characteristics, for example rural Councils tend to have higher roading programmes, whereas Regional Councils tend to have an emphasis on regulatory and research centred activities.

Waipa District Council supports moving to a new index, which may be the Sapere Index. However we also recognise that there is value in local government taking a consistent methodology to cost forecasts and therefore would recommend that the adoption of a new index be coordinated by a professional body, such as Local Government NZ or the Society of Local Government Managers.

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

Waipa District Council submission

As noted by the Productivity Commission, one of the outcomes arising from the settlement of historic Treaty of Waitangi breaches has been the creation of a variety of co-management and co-governance arrangements between mana whenua and local councils. These arrangements have generated additional costs which, for lack of any alternative, are funded by ratepayers. Additional costs can include:

- Administrative support, democratic and other council staff services necessary to enable the exercise of powers and functions of the co-governance entities;
- Specialist technical staff time spent developing and implementing co-governance entity plans, documents and joint management agreements, including legal, scientific, policy, planning and resource consenting advice;
- Assistance to build iwi capacity so they can participate in Treaty settlement arrangements; and
- Additional RMA policy development activities required under Treaty settlements.

Waipa District Council considers that building and enhancing positive relationships with Maori is critical. Accordingly, considerable time and resource is spent on strengthening these relationships. It is relevant that this relationship building was undertaken independently of any Treaty settlements, and from that perspective, could be considered an accepted part of our partnership approach.

On the other hand, the primary Treaty relationship is between Maori and the Crown. To that extent local authorities are, arguably, representing the Crown at a local level. For this reason we consider that full reimbursement of the costs associated with this role would be appropriate.

Q5.1 – The Commission is seeking more information on the advantages and disadvantages of reducing the frequency of 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?

Waipa District Council submission

Waipa District Council concurs with the view previously expressed by the Society of Local Government Managers (SOLGM), which identifies that no clear-cut savings are likely to arise from reducing the frequency of Long Term Plan (LTP) reviews from three years to five years. This is because:

- It is likely that less frequent LTP reviews would be accompanied by more frequent LTP amendments. Depending upon the scale of the amendment necessary, the savings created by delaying an LTP review could quickly be eroded by the costs of amendments. It is noted that good cost savings have been created by allowing Years 2 and 3 of the LTP to become a de facto Annual Plan, however it is unlikely that any forward planning would be accurate enough to allow these savings to be extended to Years 4 and 5.

- Moving to a five year LTP cycle wouldn't sit well with the triennial election cycle. This is because over any ten year period there would be at least one Council that would be entirely bound by the LTP adopted by the previous Council. It also means that once every fifteen years the adoption of an LTP would coincide with the local election year.

Notwithstanding that moving to less frequent LTP reviews is not supported, we note that considerable improvements, as identified in the draft report, could be made to streamline the generation of an LTP while at the same time improving its usefulness to the public. We therefore support the Commission's Recommendation 5.7 ("The Local Government Act 2002 should be revised to clarify and streamline the required content of Long-Term Plans so as to reduce duplication, ease the compliance costs on councils and help make them more accessible documents.").

The Commission has found, in Finding 5.6, that "While the purpose and content of Long-Term Plan consultation documents are prescribed in legislation, the form and manner of engagement are not. Councils are free to undertake early engagement to ask open-ended questions, and use a wide range of techniques tailored to their local communities. Some are doing this effectively".

We believe that Waipa District Council is one such Council that is engaging with its communities effectively, however we note that the Long-Term Plan consultation document (CD) requirements can hinder effective engagement. This is because the CD cannot (at least according to our auditors) take into consideration the outcomes of pre-engagement. This means that pre-engagement, and the decisions made as a result, must be re-litigated in the CD.

Q5.2 – Is it appropriate for local authorities to include an adjustment of 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?

Waipa District Council submission

Producing a long term plan with no provision for inflation is unrealistic. It would set Councils up for criticism, while at the same time providing a ready-made excuse if rate increases exceeded the levels projected.

Notwithstanding the above, we are aware that some Councils do strip price inflation from (mainly operational) budgets as a discipline to ensure increases are properly justified. Our view is that this is a matter of best practice, and should be left to the discretion of individual Councils.

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?

Waipa District Council submission

On its face the logic for introducing a capital charge is sound. Specifically, it is accepted that a capital charge would more transparently recognise the full cost of service for capital intensive activities and that, theoretically, it would incentivise more active asset management.

However, a capital charge is an internal transfer which is netted out in the consolidated financial statements. It is likely therefore to not only be easy to ignore, but will also add to the overall clutter of Council's financial reporting, which the Commission has already found makes them difficult for the general public to decipher. We are also concerned that the valuation of some classes of asset and the ability to rationalise them, if that was considered necessary, would be fraught.

If there are concerns around the quality of asset management in local government, there are likely to be other mechanisms available to address this, such as enhancing capital budgeting / business case methodologies and asset management practices within local authorities.

We would not support any further consideration of capital charging.

Q6.1 – How desirable and useful would a tax on vacant residential land be as 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?

Waipa District Council submission

A tax on vacant land is proposed as a mechanism to discourage land banking, by incentivising productive use. While the proposal has a prima facie attraction, there are likely to be a number of implementation challenges. For example, it is unlikely that a large lot containing a single dwelling would be considered vacant notwithstanding that it may be capable of substantially more intensive occupation. Similarly unoccupied dwellings are unlikely to be included within the definition of vacant land.

Land banking is a concern. A landowner occupying strategically important land required for roading, stormwater or other essential services can add substantial costs to the development process, or stymie it entirely. In these situations it is possible for local authorities to commence a compulsory acquisition process under the Public Works Act, however this is almost always a time consuming, politically unpopular and costly exercise. In addition, while it can allow Councils to install infrastructure over or through property it doesn't necessarily mean that the land itself will be developed. This is an issue the Crown is seeking to address through the creation of Urban Development Authorities, however provisions to streamline the Public Works Act would provide a wider benefit.

For these reasons we would not favour a vacant land tax at this time but instead recommend the Crown consider streamlining the Public Works Act.

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?

Waipa District Council submission

There is some merit to this suggestion and it is supported in principle. Expanding essential infrastructure into undeveloped or brownfields sites is extremely expensive and the most common mechanism for recovering costs is through development contributions. Prudent Councils are therefore incentivised to safeguard

ratepayers' funds by limiting the number of growth cells open for development at any one time, in order to minimise the risk that revenue will be slower than projected. Access to a separate source of revenue would reduce this ratepayer risk and therefore may encourage Councils to maximise this revenue stream by releasing more land for growth, more quickly.

We note that there are a lot of unanswered questions concerning the operation of such a scheme, such as the source of funding (e.g. general government revenue or an additional levy on construction) and how the funds will be allocated. The devil will be in the detail, however there would seem to be sufficient advantages to merit further consideration.

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?

Waipa District Council submission

This is primarily a legal question, however we note that it would be useful if recognised national standards for development were generated, publicised and kept up-to-date. This would allow Councils to adopt 'best practice' when permitting (or declining) development proposals and therefore mitigate against the likelihood of a successful legal challenge.

PART B - SPECIFIC ISSUES

The Commission has prepared a comprehensive (draft) report. Part B of this submission is not intended to cover every issue raised, but only to highlight issues where we disagree with the Commission's recommendations, or where we consider further elucidation is merited. We do however wish to note that we support the Commission's call for additional instruments to help fund tourism-related costs and the need for a closer relationship between central and local government in the co-design and implementation of appropriately funded regulatory initiatives. We also note that legislation will shortly be introduced to the House which specifies a new regulatory regime for the three waters (drinking water, waste water and stormwater). We look forward to submitting on this, in due course.

Aligned Planning

Waipa District Council submission

Waipa District Council's February 2019 submission to the Productivity Commission recommended that consideration be given to aligning New Zealand's disjointed legislative planning framework. It was suggested that spatial plans could be a useful mechanism to act as a linchpin to guide decision-making under the Local Government Act, Resource Management Act and Land Transport Management Act.

The Commission's 'Finding 5.11' (pg. 130) supports Waipa's recommendation and concludes that: "Undertaking long-term planning within a spatial planning approach promotes a more coordinated and integrated approach to strategic planning as well as investment decision making".

We are very pleased that the Commission has supported our view with respect to the value of spatial planning, and we note that the recently announced review of the Resource Management Act has also acknowledged the need to rationalise the national planning framework. However we continue to advocate for the need to fundamentally overhaul and align the base principles upon which the New Zealand planning framework is based and upon which central and local government investment decisions are made.

Tools for Funding Growth

Waipa District Council submission

The Commission has recommended that government consider providing councils with new funding tools for growth related expenses. These include a value-capture rate, congestion charges and volumetric wastewater charges. Each of these has merit and Waipa District Council would support further investigation accordingly. We note however that each option also raises issues that need to be resolved prior to practical application. For example, relying on increases in property value in order to repay debt is inherently risky. Similarly, technical issues need to be resolved before true volumetric measurement of the volume and potency of wastewater discharges on a property-by-property basis could be rolled out.

Special Purpose Vehicles

Waipa District Council submission

Waipa is a high-growth area and we are familiar with the proposed use of Special Purpose Vehicles and the Infrastructure Funding and Financing (IFF) tool to enable development. These instruments are primarily targeted at Councils approaching their debt ceiling, and who therefore cannot afford to fund further growth-related infrastructure.

In certain circumstances, such as the Milldale development in Auckland, these initiatives may work very well. We are however concerned that the application of this model, as it currently stands, to brown-field and/or highly fragmented sites will create unworkable inequities. This is due to the substantial impact annual levies will have on private, non-developer landowners.

We understand that a Bill is currently being drafted which will be presented to Parliament later this year, or early 2020. We look forward to submitting on the Bill when the details have been determined and are able to be fully assessed.

Governance

Waipa District Council submission

The Productivity Commission has found that “The elected member governance model does not consistently deliver a mix of councillors that collectively possesses the full range of skills required for effective governance, and evidence shows that many councils lack the necessary expertise for effective decision making. A lack of skilled councillors can be ameliorated by having a well-qualified and suitably experienced Chief Executive” (pg 97).

While it is undoubtedly true that a capable Chief Executive is a fundamental success factor for a local authority, it is inherently perilous for the success or failure of decision making to be reliant on one person. We also note that the nature of a Chief Executive's employment (essentially a five-year, fixed-term contract) and its high public profile, tend to reward risk-avoiding behaviours which can stifle innovation, 'honest' conversations with elected members and long-term thinking.

Decisions made by elected members are informed by analysis and advice supplied by Council officers. In the case of highly complex or highly technical matters reports may be complemented by third party expertise. It is therefore not necessary for elected members to be experts in all aspects of Council activities.

In addition, there is a concern that the introduction of unelected 'experts' into decision-making roles could undermine the essence of New Zealand's local representative democracy.

Notwithstanding the above, we agree that ongoing professional development is to be encouraged. Waipa therefore supports the Commission's call for:

- The Department of Internal Affairs, Local Government New Zealand and the New Zealand Society of Local Government Managers (SOLGM) to work together to improve basic governance skills, including financial governance skills, amongst elected members; and
- To require all Councils to have an assurance committee, including appropriately skilled and qualified independent appointees (which may include an independent chairperson).

A better understanding of the barriers to standing as an elected member is also required. This should include consideration of the modest levels of remuneration currently offered to elected members. An analysis of members elected at the 2016 local body elections (LGNZ, "New Zealand's elected members: A profile", February 2019) identified that 83% of members were aged 51 or older; and less than 20% identified as being a paid employee. These figures suggest that prospective candidates who are in full-time employment (but not self-employed) are choosing not to stand for election. There are likely to be a number of reasons for this including difficulties centred around the time commitment required to properly perform elected member duties and the potential financial and career path implications. This Council has previously raised concerns about levels of remuneration, in the context of submissions to the Remuneration Authority, and considers that a principled review of this issue is required.

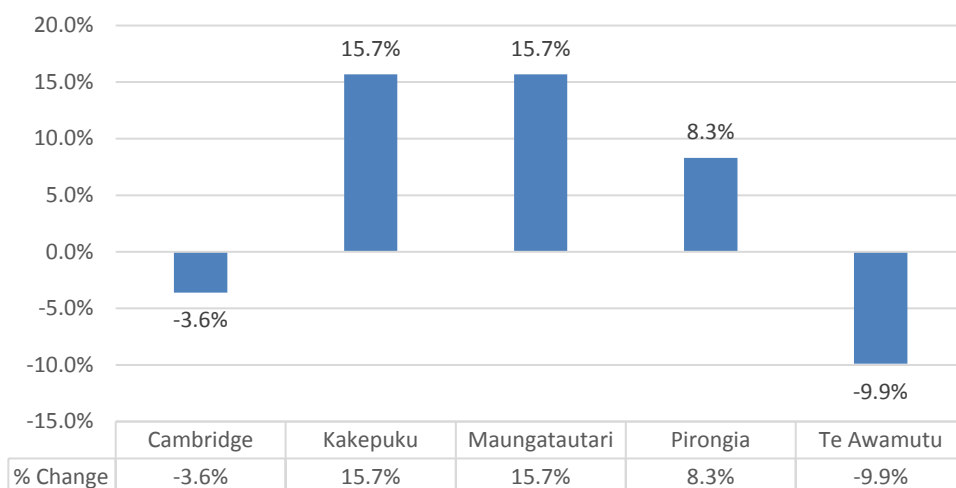
Uniform Annual General Charge & Differential Rates

Waipa District Council submission

The Commission has recommended the abolition of differentials and the uniform annual general charge (UAGC). This recommendation is based on the view, expressed elsewhere in the draft report, that local authorities should be making greater use of user pays and targeted rates.

Waipa District Council does not employ any rating differentials, however we do levy a UAGC. The following table describes the impact of removing the UAGC on each of the District's wards. The graph is based on replacing the Uniform Annual General Charge (current year \$708 incl. GST) with an increased Capital Value rate. Unsurprisingly the predominantly urban wards, Cambridge and Te Awamutu, enjoy a decrease in total rates paid; while the majority rural wards, Kakepuku, Maungatautari and Pirongia, sustain an increase.

Rate Impact of Removing UAGC (2018/19 Rates)



The UAGC is an important tool used by local authorities to adjust the incidence of rates between sectors and to stabilise rates where they might otherwise be volatile. This latter circumstance arises with regularity as a consequence of district-wide rating revaluations, where swings between the value of sectors can be significant.

Waipa District Council agrees with Local Government NZ’s assessment that the “rationale behind rating differentials is not always transparent”. For this reason we would support the removal of differentials. We do not however support the removal of the Uniform Annual General Charge.

Funding Policy

Waipa District Council submission

The Commission has recommended that the ‘benefit principle’ should be the primary basis for allocating rates. This approach is based on the argument that those who benefit more from public expenditure should pay more towards supporting that expenditure. The Commission does however recognise the importance of ‘ability to pay’, and has also acknowledged that Councils must be free to make their best judgements in setting rates.

If adopted, the Commission’s recommendations would introduce a formalised two-stage process in the setting of rates, where the first stage would be applying the benefit principle and the second stage would be considering ability to pay and modifying the outcomes of the first stage accordingly. Waipa District Council has no significant objection to this, however we note that few services provided by local Councils are either wholly ‘public’ or wholly ‘private’. We also note that the principles of ‘ability to pay’, the ‘benefit principle’ as well as other factors such as option value, bequest value, stability and intergenerational equity, are all considerations Councils already use when considering rates. For this reason we do not believe that the proposed changes to the process of determining rates would, if accepted, lead to any significant change in rates incidence.

Uniform Charges

Waipa District Council submission

The 30% cap on uniform charges was introduced to ensure that the bulk of Council rates were collected as a property tax, and as a consequence to ensure that the rating system didn't become overly regressive. However, as noted by the Commission, no rationale exists for where the cap is set, or what constitutes 'overly regressive'.

Waipa has a divergence of views on this issue. On the one hand it is recognised that there is no clear rationale for a 30% cap on uniform charges and that it unnecessarily restricts the policy choices of Councils. On the other hand there is a view that the 30% cap establishes a safeguard against Councils that could adopt overly regressive rate policies. In the absence of a clear alternative, Waipa's position is (by default) that the cap should remain.

Rates Rebate & Rates Postponement

Waipa District Council submission

Waipa District Council supports retaining a scheme that provides assistance to low income ratepayers. We do not accept that rates rebate and rates postponement are interchangeable. The rates rebate scheme addresses genuine hardship in terms of both income and assets. It is effectively an income redistribution tool appropriately managed by central government. In contrast a rates postponement scheme provides an alternative financing source but does not change the ultimate burden of funding. It is significant that there are no successfully operating rates postponement schemes currently operating in New Zealand.

The Commission's finding that the rates rebate scheme is administratively inefficient is accepted, however we note that mechanisms are available that would help improve this, such as moving it into an online environment. We understand that the recent trial of an online platform was largely successful, notwithstanding the ongoing legislative requirement for a witnessed declaration.

We note that Local Government New Zealand has expressed concern that the Accommodation Supplement, which may be an appropriate alternative, "... is complex to apply, is a significant contributor to rent increases and may not be fiscally sustainable".

The Commission has also expressed concern at the rates rebates scheme's lack of equity, particularly between home owners and renters, which we agree have validity. In our view this should lead to a first-principles review of how central government exercises its income redistribution role, including the role of the Accommodation Supplement, rather than a unilateral decision to dispense with the scheme in its entirety.

Climate Change

Waipa District Council submission

The Commission has provided sound recommendations with respect to climate change which are supported by Waipa District Council. We do however agree with SOLGM's submission that there is a danger that a

multiplicity of existing agencies could be created and that consideration should be given to utilising existing agencies such as NIWA and the Climate Change Commission. We also agree with SOLGM's suggestion that drinking water infrastructure should be included within the coverage of the proposed Climate Change Resilience fund. This would mean that drinking water, waste water, storm water and flood protection infrastructure would all be eligible for financial support if re-design and possibly relocation was necessary as a result of the impacts of climate change.

Development Contributions

Waipa District Council submission

A new entity 'Kainga Ora - Homes and Communities' will shortly be established. Under the legislation this entity will have responsibility for promoting significant housing developments. The Government's intention to address a deficiency in affordable housing has been clearly signalled, as has the potential for the Crown itself to become a significant land developer. However the Crown is exempt from development contributions, which creates a significant risk for local communities. As outlined in the draft report, development contributions are the principal targeted charge used by local government to recoup the cost of growth-related infrastructure. If the developer, in this case Kainga Ora, does not pay for these services the financial burden must be carried by ratepayers. This would clearly be inequitable and we would request that the Commission formally raise this issue with central government, with a recommendation that these development costs continue to be funded by developers, including the Crown.

Although the Crown is exempt from development contributions, they are not exempt from financial contributions levied under the Resource Management Act and neither are they exempt from the Infrastructure Growth Charges levied by Watercare Services Ltd. There would be benefit, in our view, for these different regimes to be rationalised.

Service Performance Reporting

Waipa District Council submission

The Commission has concluded (Finding 5.4) that: "The current performance reporting requirements on local authorities, including the financial and non-financial information disclosures, are excessively detailed, inappropriately focused and not fit-for-purpose". We agree with this finding and the Commission's recommendation that "The local government reporting framework (including the financial disclosures, Funding Impact Statement and performance measures for service delivery) should be subject to a fundamental, first principles review."

Waipa District Council would welcome the opportunity to present in support of this submission.