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New Zealand Productivity Commission
Wellington

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Local Government Funding and Financing submission

The Mana Whenua Kaitiaki Forum [the Forum] has membership from each of the nineteen mana whenua entities with interests in the Auckland Council area. The purpose of the Forum is to support mana whenua entities give effect to their responsibilities as Kaitiaki in an efficient and effective manner, with a focus on significant issues and opportunities affecting people in Tāmaki Makaurau.

The Forum asks that the Productivity Commission (the commission) undertake more detailed analysis of local government funding pressures as these relate to the emerging nexus between mana whenua authorities, central government and local government. We suggest this requires a separate report.

We recognise other Māori entities might identify a wider range of issues for investigation and we recommend the commission canvas this before initiating the further work suggested.

An emerging tripartite governance

The direction of travel for land and waters governance is to a three-party arrangement: central government, local government, and mana whenua. This means land development decisions and environmental quality decisions will inevitably require engagement by the three parties jointly.

The implications of this need much further study. In particular, a sound, long-term financing arrangement needs to be agreed which recognises that, while local and central government have revenue sources, iwi have no similar revenue source. This brings risk to the arrangement because one of the key partners will struggle to play its role.

As one example, the anticipated Kaipara Harbour Treaty settlement is developing as a harbour and catchment-based arrangement between local government and iwi. The inclusion of the harbour's catchment means 6,000km² of area and four local government entities are engaged. If this approach is followed in the Manukau Harbour, Waitemata Harbour and Hauraki Gulf, then

almost all the Auckland region will be under shared governance arrangements between iwi and local government. This process will repeat across other parts of Aotearoa with other harbour and river settlements.

Land and water management commitments are also being made by local and central government that require the application of matauranga Māori and kaitiakitanga. Some of these decisions are being built into resource consents with time spans of up to 36 years.

As with Treaty settlement co-governance, such commitments require day to day partnership with mana whenua entities for activities central to land development and community and environmental outcomes. These commitments also require significant Māori resource.

In our view these commitments are being made across the country without a comprehensive view of the associated costs and financing options, particularly post Treaty settlement governance entities. These costs are additional to costs which fall to local government.

Careful investigation is therefore needed of the financial implications of the emerging direction of travel associated with:

- Co-governance arrangements arising from Treaty Settlements
- Legislative requirements for mana whenua participation in resource management and service provision

The commission's statements in its draft report are relevant:

- *In the New Zealand context, the Treaty of Waitangi is an important frame when thinking about principles for local government funding and financing. Local government decisions have a strong impact on Māori interests, which are explicitly recognised in legislation. Councils are required to facilitate Māori participation in council processes and decision making. In doing so, councils are giving effect to the Crown's Treaty obligations, for which the Crown retains ultimate responsibility.*
- *Co-management and co-governance arrangements established through Treaty of Waitangi settlements can impose considerable costs on councils, and these costs are not evenly distributed among local authorities. To date, Crown support for such arrangements has fallen short of covering the initial and ongoing costs to councils.*

Importantly too, the Forum calls for central government to remain engaged, including financially, after Treaty settlement arrangements involving Māori and local government are in place. The Crown has a significant and ongoing interest to ensure the successful implementation of these Treaty settlement outcomes. Ongoing financial support should be provided that properly reflects this interest.

Māori land: a stock of value

The focus here is on the development of land owned by multiple Māori land owners, including through Trusts, companies and Treaty Settlement vehicles. This range of ownership types is referred to in this submission as 'Māori land' for convenience. We are not referring to land owned by individual Māori.

Through the Treaty of Waitangi, legislation specific to Treaty settlements, the Local Government Act and other legislation and associated policy commitments there is both a desire and a need for local government to work with Māori to facilitate better outcomes on Māori land. This is a nationally significant issue and reflects in sub-optimal investment in housing and commercial infrastructure on Māori land.

The Forum asks the commission thoroughly investigate the proposition that Māori land should not be subject to government or local government charges or fees in the process of development nor to rates. The basis for this is that there is a stock of value held by government and local government arising from land and other assets taken illegally or unfairly from Māori in previous years. As is well recognised, Treaty of Waitangi settlements reflect a fraction of the value of the assets lost, perhaps 3%, and so a stock of value remains with the government and local government. We ask that the commission investigate the implications for Māori, local government, central government and the wider community of Māori being able to draw down on this stock of value rather than pay charges or fees in the process of developing land.

The 'stock of value' concept is not new. The Local Government Act already allows councils to recognise the value of financial and other contributions made to councils in advance of development and recognises that such contributions can be transferred from one development to another.

The undersupply of Māori housing and associated community services (e.g. marae) and employment on this land is a nationally significant issue. The Forum asks that the investigation go forward not just as a matter of justice but also as a practical response to an important issue that directly affects the role of local government.

Appropriate use of funding tools

The draft report takes the view that funding tools are generally appropriate for local government use. However, we ask the question: *are the tools being used appropriately?*

The experience of kaitiaki is that:

- Local government often makes long term growth decisions that assume the best practical option for environmental outcomes but then fails to follow through due to lack of finances
- Similarly, local government often make decisions, or allow private developments, that have poor environmental outcomes due to pressure to keep costs of development down

This can mean that long term development plans are enabled on the promise of best practice environmental outcomes while investments are made on inadequate budgets.

For example, despite considerable effort over recent decades, Auckland's urban streams remain highly degraded, and are expected to remain degraded for many years to come. While regulatory measures such as water sensitive design (when applied to new development) may reduce the impacts of new development on stream health, improving water quality and habitat within existing/established urbanised catchments is much more challenging (and has yet to occur at any meaningful scale in Auckland).

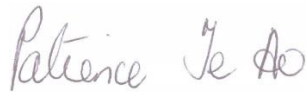
The Forum asks that the commission look closely at the question of whether the available tools are being applied effectively. Are council's raising enough money to deliver the improved quality outcomes that are being demanded via national policy statements? What is the evidence and incentive arrangement to indicate councils will raise enough money to meet the requirements of their iwi partners as the tripartite governance model emerges?

We think this is a significant issue because Unitary / Regional councils have played a significant role in enabling water quality degradation and are now facing significant costs to remedy the situation in line with national policy statement requirements. We ask that the commission identify a range of possible options to ensure the costs of development and remediation are fully funded and not off set in the form of environmental externalities (i.e. pollution).

Ngā mihi



Ngarimu Blair
Co-Chair



Patience Te Ao
Co-Chair

CC Hon. Nania Mahuta, Minister of Local Government