

29 August 2019

New Zealand Productivity Commission Wellington

LOCAL GOVERNMENT FUNDING AND FINANCING SUBMISSION

Ko te tīmatanga o te aronganui ko te wehi ki āia ki te Wāhi Ngaro. Me mihi ki te whenua me tangi hoki mō rātou kua okioki. Rātou ki a rātou ko tātou te hunga kua mahue mai ki muri ki a tātou. Kāti ake.

1.0 Background

- 1.1 Te Rūnanga o Ngāti Whātua [“Te Rūnanga”] welcomes the opportunity to submit on this matter. Te Rūnanga was established as a body corporate by Te Rūnanga o Ngāti Whātua Act 1988 and is a Māori Trust Board under the Māori Trust Boards Act 1955. It is also a Mandated Iwi Organisation [MIO] and Iwi Aquaculture Organisation [IAO] for the purposes of the Māori Fisheries Act 2004.
- 1.2 *Te Rohe o Ngāti Whātua is traditionally expressed as Tāmaki ki Maunganui i te Tai Hauāuru and Tāmaki ki Manaia i te Rāwhiti. The northern boundary is expressed as, Manaia titiro ki Whatitiri, Whatitiri titiro ki Tūtamoe, Tūtamoe titiro ki Maunganui. The southern boundary is expressed as, Te awa o Tāmaki.*
- 1.3 Te Rohe o Ngāti Whātua [Ngāti Whātua tribal area] extends from the Ōtāhuhu Portage / Tāmaki estuary in the south, northwards along both coasts to Whangarei in the east and Waipoua in the west. The southern neighbours are various hapū of Tainui and the northern neighbours are various hapū of Ngāpuhi.
- 1.4 Te Rūnanga is the sole representative body and authorised voice to deal with issues affecting the whole of Ngāti Whātua. As mana whenua Ngāti Whātua are involved in multiple forums and engaged on a number of matters in Auckland with limited resources. Te Rūnanga is an active member of both the Mana Whenua Kaitiaki Governance Forum as well as the equivalent Kaitiaki Managers’ Forum with Water Care Services Limited. Put simply, Te Rūnanga o Ngāti Whātua do not have the ability to continually monitor Auckland Council and government shifts and therefore constantly altering points of engagement accordingly. This submission is made for and on behalf of Te Rūnanga to give effect to their responsibilities as Kaitiaki in an efficient and effective manner. A key focus will be on those significant issues as well as opportunities for the people within Tāmaki Makaurau. A key purpose across successive generations of Ngāti Whātua uri is to give effect to their responsibilities as Kaitiaki in an efficient, and effective manner, with a focus on significant issues and opportunities affecting people in their places of residence.

1.5 Te Rūnanga 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.

2.0 An emerging tripartite governance

2.1 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.

2.2 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.

2.3 As one example, the anticipated Kaipara Moana Remediation settlement is developing as a harbour and catchment-based arrangement between local government and iwi. The inclusion of the Kaipara Moana catchment means 6,000 km² of area and four local government entities are engaged. If this approach is followed in the Manukau Harbour, Waitematā 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.

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

2.5 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.

2.6 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; and,
- Legislative requirements for mana whenua participation in resource management and service provision.

2.7 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; and,*
- *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.*

2.8 Importantly too, Te Rūnanga 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.

3.0 Māori land: a stock of value

3.1 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.

3.2 The Forum asks the commission to 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.

3.3 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.

3.4 The undersupply of Māori housing and associated community services (e.g. marae) and employment on this land is a nationally significant issue. Te Rūnanga 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.

4.0 Appropriate use of funding tools

4.1 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?*

4.2 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; and,
- Similarly, local government often make decisions, or allow private developments, that have poor environmental outcomes due to pressure to keep costs of development down.

4.3 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.

4.4 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].

4.5 Te Rūnanga 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?

Te Rūnanga o Ngāti Whātua

The logo of Te Rūnanga o Ngāti Whātua is a stylized, golden-colored Māori artifact, possibly a pounamu (greenstone) pendant or a similar ceremonial object, featuring intricate carvings and a central circular element.

- 4.6 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].

Kāti ake

Dame Rangimarie Naida Glavish DNZM JP
Chair

CC Hon Nanaia Mahuta, Minister of Local Government
Alan Riwaka, Manahautū, Te Rūnanga o Ngāti Whātua