

Newsletter of the
**LOCAL GOVERNMENT
FORUM**

Number 10 September 2010

Wellington

Welcome to the Forum

The Local Government Forum advocates policies that create a positive economic environment. Recognising the significant role of local government in private investment decisions, the Forum was established in 1994 to promote greater efficiency in the local government sector and to contribute to debate on policy issues affecting it.

The Forum comprises business organisations that have a vital interest in the activities of local government, and regularly produces publications addressing crucial issues relating to the performance of local government and legislative developments in that sector.

This newsletter offers commentary on a range of issues affecting local governance, and is written and produced by Forum members.

MODEST BILL NO CONSPIRACY

By Charles Finny

Welcome to the 10th edition of the Local Government Forum Newsletter. It comes at a busy time, with local elections in the offing and the Local Government Act 2002 Amendment Bill currently before Parliament.

This newsletter offers the business view on local government. It features an insight into the public's views on local government funding and taxation, reviews of development contributions and other infrastructure-related topics, and discussion on the Local Government Act Amendment Bill from a business perspective.

The Bill is of particular interest given the expansion in the role and cost of local government in recent years. Its real significance is as a first step toward some genuine legislative restraint on the role of councils. It is also a welcome re-think on the reporting of financial management of local government, and offers some additional flexibility for Councils to engage the private sector's assistance in service provision, particularly water services.

You will see in this newsletter that the business community regards its provisions as modest. It certainly isn't evidence of a right wing conspiracy to emasculate the democratic rights of communities, as some commentators would have us believe.

The Bill is in fact a very modest attempt to improve transparency in local government and encourage councils to focus on what matters and is necessary to ratepayers. It also seeks to reduce unnecessary barriers to infrastructure development.

The Bill is not an assault against local democracy as some argue. What it intends to do is provide better and more relevant information to voters on the performance of their councils. This is surely a good thing. Despite having the broad mandate since 2002 to enhance the "four well beings" of communities, satisfaction with local councils is low. Only 32% of people in a recent survey stated they get value for money from the rates they pay, and the nationwide turnout in the 2007 local authority elections was approximately 44% – raising serious questions about the quality of local democracy. If there is anything eroding that quality it is the current framework that councils operate under.

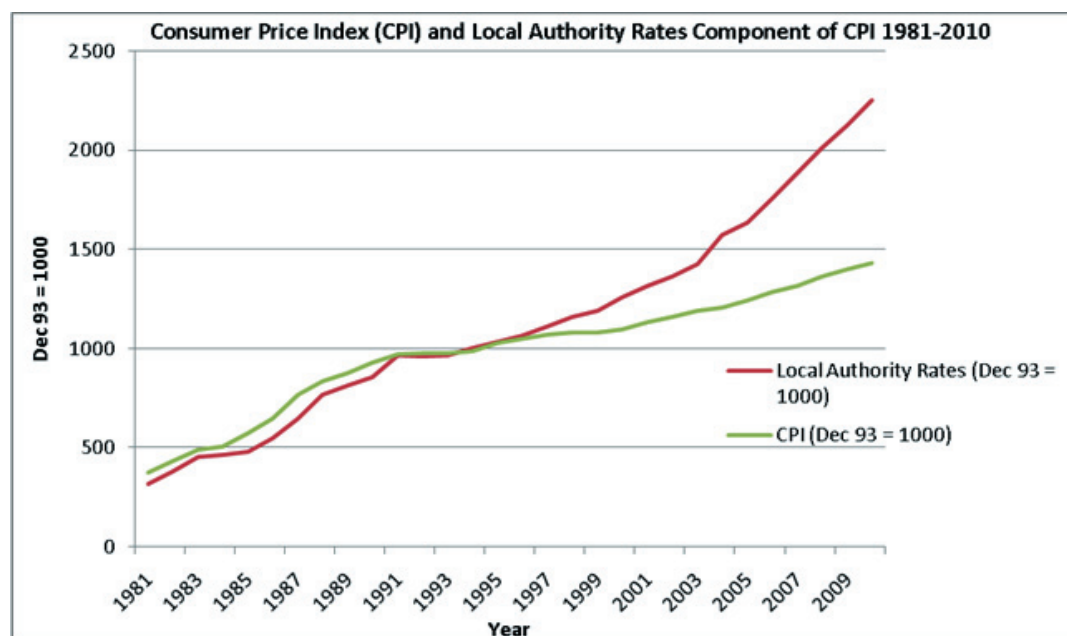
The reality is that it is often the small councils in rural areas that have the best rates of participation in local democracy. It is also generally these councils that stick to core activities.

So the Bill, with its emphasis on core services, transparency and flexibility to engage private providers, should not be seen as a threat. It is an opportunity to begin the long process of tuning local government back in to the genuine needs of its communities.

Charles Finny is a Director of the New Zealand Chambers of Commerce and Industry and Chair of the Local Government Forum.

STATE OF THE GAP

Despite a recent slowdown in the rate of increase, local authority rates continue to outstrip inflation. Here's the state of the play...



The latest local authority statistics for the March 2010 quarter¹ show total local authority operating expenditure spending up 3.8% on the same quarter last year. This is a much reduced rate of growth compared to the previous decade when annual spending growth was regularly over 8%. Similarly, operating revenue is also up 3.8% on the same quarter last year, again a reduced rate of growth compared to previous years. However, on the downside, rates revenue grew by

more than operating revenue – by 6.7%.

Over the past several years rates revenue has grown at a faster rate than total expenditure and this trend appears to be continuing. And also of concern is that the local government sector has now been running deficits for the past two years – sooner or later the gap between spending and revenue will need to be closed, which may require some tough choices by councils and communities.

¹ Published by Statistics New Zealand

BILL SHOULD INCLUDE PUBLIC GOODS GUIDANCE

By Jeremy Harding

The range of activities undertaken by local government has changed considerably over recent years. So much so that councils today are almost unrecognisable from what they looked like only a decade or so ago.

Gone are the days when the provision of basic services such as water, rubbish and sewerage were the mainstay of local government. Councils are now engaged in a multitude of social, cultural, and economic activities, often while neglecting their traditional services.

Law reform in 2002 was largely responsible for this change. The Local Government Act 2002 gave councils the power and freedom to widen the scope of their activities considerably. Significant growth in annual spending and the aggregate rate-take has been one outcome.

There are even greater economic costs than this though. Local government is not well placed to provide many of the non-core services it is increasingly providing and its unwarranted expansion has costs beyond the cost of higher rate bills. There is a crowding out of the private sector as local government increases its share of the national economy, and a reduction in economic growth as activities are run less efficiently as a result.

...without tighter constraints local authorities will continue to expand the scope of their activities.

The Local Government Forum is concerned that without tighter constraints, local authorities will continue to expand the scope of their activities. There is a particular risk that the new Auckland Council, for example, will take advantage of lax constraints and build an empire. The Forum also notes that Wellington City Council has recently floated the idea of an office in China – hardly a core local government role.

As readers of this newsletter will know, Parliament is currently considering the Local Government Act Amendment Bill, which aims to reign in some of this excess by refocusing local authorities on core activities. While the Bill's intentions are well-meaning it doesn't go far enough, and as it currently stands the Bill is a lost opportunity.

Essentially the Bill would require councils to have regard to their core services role. Unfortunately, though, it doesn't adequately define what this is. The Local Government Forum believes the correct role of councils is to provide local public goods and services that cannot be better provided by the private sector or central government and we think the Bill needs to specify this.

A good solution is for the Bill to include a schedule which lists a hierarchy of public goods... as guidance for councils

A public good is defined as something that the private sector is unlikely to provide because it can't be easily charged for. Street lighting or civil defence are good examples of this. Circumstances where local government is better able to provide than central government are where local knowledge is required or the costs and benefits of government action accrue locally. Provision of public goods such as emergency management; roading and related activities; stormwater and wastewater systems; parks and reserves are a council's core business.

Sometimes there can be a grey area as to which other activities are core. The Forum does not think that councils should be prevented from undertaking private goods or activities when it can be shown that there would be genuine public benefits from doing so. However, activities outside the clearly defined scope should be the exception rather than the rule.

A good solution is for the Bill to include a schedule which lists a hierarchy of public goods, such as that shown in the table below, as guidance for councils.

With or without a specified list of core local government services, responsible councils should not range far from a fairly narrow range of services without good reason. Should they wish to do so, they should perhaps seek the agreement of ratepayers via a referendum.

Jeremy Harding is Policy Manager at the Wellington Chamber of Commerce

HIERARCHY OF PUBLIC GOODS

The figure below illustrates a division of services commonly provided by local government according to their varying degrees of excludability and rivalry in consumption. Those towards the bottom right hand corner of the figure are close to private excludable goods, and there is little economic basis for their provision as public goods. Those towards the top left hand corner have more of the

collective characteristics of public goods, such as streetlighting and parks and reserves. In between these two extremes are activities with some public good features. Some of them have high rivalry that creates congestion but it is not currently technically feasible to charge for them at reasonable cost (such as local roads). In other cases funding via a mix of user charges and rates is appropriate.

		Rivalry in consumption →		
Excludability of consumption ↓		<i>Public goods</i>		
		Low	Medium	High
	Low	Streetlighting, street and traffic signs, parks and reserves, civil defence, public health and safety (eg security cameras), democratic, representative and regulatory functions	Low use roads, footpaths & cycleways	Remedying marine pollution, biosecurity (pest and noxious plants) & graffiti removal from public facilities and areas
	Medium	Flood protection	Sports grounds, public conveniences & bus ways	High use roads, tourism promotion, economic development
	High	Museums & galleries	Public libraries, Swimming pools, indoor recreation facilities & public halls/venues	Ports, airports, public transport, water & wastewater, rubbish disposal, cemeteries, car parks, cinemas & housing
				<i>Private goods</i>

CONSTITUENCY THERE FOR FUNDING CHANGE

By Don Nicolson

Federated Farmers of New Zealand believes that comprehensive reform of local government funding is essential to restoring the sector's credibility with voters. They recently commissioned a survey from Colmar Brunton to explore this issue.

High and ever-increasing council rates is a long-standing gripe of farmers. This is little wonder given that rates often rank in the top half dozen farm input costs. While rates and funding reform have been considered too hard by successive governments, an opinion survey undertaken for Federated Farmers by Colmar Brunton² reveals wider public support for dealing to this problem and provides hope that we might see some action to address it.

Only 32% of New Zealanders think their local council provides them with value for money for the services they use.

The survey found that New Zealanders are dissatisfied with their councils and with how they are funded. Only 32% of New Zealanders think their local council provides them with value for money for the services they use. Meanwhile, only 33% of New Zealanders – ratepayers and non-ratepayers – think rating on property is the most appropriate way to fund local councils. At present local government is broadly empowered in terms of its roles and responsibilities but it is restricted to a narrow, archaic funding base which relies heavily on rates based on property values. Local government does not have a tax system fit for successful modern governance. Only a subset of the community, property owners, directly pay tax and among that group are widely diverse contributions depending on nothing other than an asset value. Federated Farmers wants local government funding reformed to reduce the sector's

dependence on rates based on property value. How might this be done?

Colmar Brunton asked respondents to provide their preferences on a choice of funding options for local government. It found that 28% of New Zealanders think that a uniform charge is the **most acceptable** council funding option, marginally ahead of property value rates (27%), followed by increased user charges (15%), share of GST funding (13%), and share of income tax (10%).

Interestingly, the survey found that 53% of New Zealanders would be more inclined to vote in the council elections if their preferred option for council funding was put in place. Local government funding reform could be a good way to improve democracy and reverse the low and falling voter turnouts in local elections.

The survey found that 53% of New Zealanders would be more inclined to vote in the council elections if their preferred option for council funding was put in place.

What this survey demonstrates is that there is a constituency for real change. The Minister of Local Government has told Federated Farmers that funding reform will be looked at 'after 2011'. While the Federation welcomes Rodney Hide's commitment, it can't come soon enough and I have written to all MPs seeking commitments from across the political spectrum to make commencing work on local government funding reform a priority as soon as possible after the local authority elections later this year.

Don Nicolson is the President of Federated Farmers of NZ

² The Poll on Council Rates was conducted by Colmar Brunton for Federated Farmers in February-March 2010. The survey was of 999 people, of which only eight were farmers and 90 were rural dwellers. The maximum margin of error for the total sample is +/- 3.1% at the 95% confidence level.

DEVELOPMENT CONTRIBUTIONS: TIME FOR A RETHINK *By Roger Kerr*

Most territorial local authorities impose development contributions when land is subdivided or developed. The Local Government Act 2002 introduced development contributions following lobbying by local government.

Development contributions are similar to financial contributions, which may be levied under the Resource Management Act 1991. Local government argued that financial contributions were too restrictive. They were also subject to the RMA's appeal provisions. There are no rights of appeal for development contributions.

Development contributions are mainly used to fund capital spending on reserves, parks, water, wastewater, stormwater and roads where a direct causal link between the need for such capital expenditure and a development is perceived.

Almost all capital expenditure funded by development and financial contributions is spent upstream or downstream of the relevant subdivision or development. The landowner generally directly funds works undertaken within the subdivision or development.

Financial and development contributions are growing rapidly. A government analysis of the LTCCPs of the 45% of local authorities that participated showed that their development contributions were forecast to yield a total of \$4 billion from 2009/10 to 2018/19 and to increase from 2% of total revenue in 2009/10 to 4% in 2018/19.

Development contributions are a large impost on some developments. They have added \$30,000 and \$41,000 to the cost of each residential section in two representative developments. Some housing and commercial developments may be unaffordable with development contributions.

Development contributions are a large impost on some developments. They have added \$30,000 and \$41,000 to the cost of each residential section in two representative developments.

The Local Government Forum and the Property Council of New Zealand have prepared a report on development and financial contributions, *Taxing*

Growth and Development: A critical review of the role of development and financial contributions. (The report is available on the Forum's web site <http://www.localgovtforum.org.nz/>.)

Taxing Growth and Development identified major problems with the practices of councils in levying development and financial contributions. The report found that development and financial contributions involve complicated formulas, lack transparency and weaken the accountability of elected representations.

The Forum is calling on the government to review development and financial contributions on a first principles basis

The claimed causal link between a development and capital spending may be doubtful, as held in *Neil Construction Limited & Ors v North Shore City Council*. A significant refund of contributions followed.

Taxing Growth and Development found that direct user charges would be a more efficient way to finance some infrastructure. The provision of public goods that are unrelated to particular developments should generally be funded from borrowing and rates. The report also recommended that developers should be able to appeal against the imposition and level of development contributions.

The Forum is calling on the government to review development and financial contributions on a first principles basis as part of its current reviews of the Local Government Act and the Resource Management Act.

In the meantime, the Forum is asking candidates in the forthcoming local body elections to commit to a review of their authority's development contributions. The aim of the review should be to ensure that infrastructure is funded on an economically efficient and fair basis. The interests of residents are harmed if new housing and commercial developments are discouraged by excessive rates and compulsory levies.

Roger Kerr (rkerr@nzbr.org.nz) is the executive director of the NZ Business Roundtable

LGNZ CONFERENCE: PROSPEROUS PLACES?

The Local Government Forum argues that the efficient provision of essential public goods is the central task of local government. This is the key to local government's contribution to economic growth, and therefore the social, cultural and environmental well-being of its communities.

The 2010 Local Government NZ conference held in Auckland in late July, under the banner "Building Prosperous Places", focused on the

theme of local government's potential role in economic growth. A range of international speakers presented on the issue, including the Lord Mayor of Brisbane, Campbell Newman. The Lord Mayor's address focused on the Brisbane City Council's economic development programmes, and emphasised that Brisbane's rate of economic growth now exceeds Sydney and Melbourne's. His response to the first question from the audience of

Mayors and council CEOs was, however, revealing – that the actual drivers of that economic growth have been the traditional coal and gas industries.

What was missing from the LGNZ conference was the necessary analysis of the cost to business of local government, and whether a wider role for local government in economic development achieves a positive economic return.

NOT A LOT IN BILL FOR BUSINESSES

By John Pask

Rodney Hide's Local Government Act Amendment Bill hits the right notes, but is a work in progress

The business community has welcomed the underlying principles of the Local Government Act 2002 Amendment Bill as a good start rather than a completed solution.

Many areas of the Bill need further clarification if its underlying principles are actually to have a useful effect – i.e. for local governments to:

- operate within a defined fiscal envelope
- focus on core activities
- and provide clear, transparent and accountable decision making.

As shown in the substantive submissions made on the Bill, businesses are concerned that it excludes some of the most important issues raised by both the business community and the "Shand" Report.

As well as concerns about the Bill's lack of clarification around core services (particularly surrounding the provision of public versus private goods), issues such as differential rating, development contributions, user pays principles and contestability, have been given little oxygen. The business sector pays about half the country's rates bill, with the level of rates businesses pay often entirely disproportionate to the level of services received.

This situation is exacerbated by the generally wide use of business/commercial

rating differentials despite strong evidence supporting their removal. Where councils have agreed to reduce such differentials, they have often been tardy in doing so, tending towards incremental change due to "expenditure pressures".

With regard to water, the Bill will effectively extend from 15 to 35 years, the period for which a local government

organisation can enter into a joint arrangement with a private organisation to provide water services. While this is a positive step, wouldn't it be more appropriate for each situation to be assessed on its individual merits without being constrained by timeframes?

Furthermore, the Bill states that local government organisations will continue to retain control over the pricing of water services.

While some councils charge for water and waste on a user-pays basis, many still fund such activities out of general rates, so consumers are ignorant of the real costs of their behaviour.

More transparency in funding and pricing policies is needed across council activities to improve efficiencies and drive optimal investment outcomes.

BusinessNZ in its submission to the Select Committee stated that there needs to be greater clarity in distinguishing among the following:

- A user charge that constitutes an appropriate price for services supplied by a local authority;
- A tax on a subset of a local authority's ratepayers, justified as funding local public goods that clearly benefit them;
- An appropriate tax to fund local public goods that benefit all residents; and
- Justified charges to internalise external costs imposed on people or firms.

While the Bill is a good start, with careful examination of the submissions and recommendations made by the business community and others, it's hoped that it will be substantially improved as it comes out of the Select Committee process.

The business sector pays about half the country's rates bill, with the level of rates businesses pay often entirely disproportionate to the level of services received

John Pask is an Economist at Business NZ

FORUM WEBSITE

The Local Government Forum produces in-depth publications, submits on government proposals, and makes media comment on crucial local government issues. The Forum's publications, submissions, and media statements are available at www.localgovtforum.org.nz

INFRASTRUCTURE, CODES & COLLABORATION

By Alan Jenkins

The Infrastructure Bill, introduced as one of the government's key policy planks back in August 2009, in the main just formalises the processes that have been evolving to manage the interface between utilities and (mainly) local bodies in the so-called road reserve.

Think of the road reserve as a lot more than the flat part that we drive along. It might better be described as the infrastructure reserve, a special zone where entrenched legislation such as the Electricity, Gas and Telecommunications Acts creates a special relationship among all of the parties involved in delivering the services that link towns, places and people.

When that coordination breaks down it's often in a very visible way.

While local bodies own the road infrastructure, electricity distributors and telcos own the poles & lines in and alongside it, while gas companies and water utilities own the pipelines under it. None of the parties involved has pre-emptive rights over the others, and all have a common interest in coordinating activities.

When that coordination breaks down it's often in a very visible way. For several decades from the 1960s there seemed to be a deliberate cycle where Wellington's traffic-choked Terrace – the road that leads straight through the business district to Parliament – would get re-surfaced, then be dug up again in succession by each utility, creating havoc for motorists and stirring up the politicians looking down on this chaotic planning.

Around the turn of the century Local Government NZ took the lead in creating a forum, the Utilities Advisory Group (NZUAG), for all the parties with statutory rights in the road reserve to get their act together. While the NZUAG works on other issues too, its primary role has been in developing the 'Code', a 100-odd page manual setting out the complex mix of engineering, traffic management and notification coordination processes needed to ensure that the right people are consulted when work gets done in the road reserve, that opportunities are created to share trenches and so forth, that cables and fixtures are placed where they can be found again, and that disruption is minimised and surfaces reinstated properly.

From the public's point of view there is a lot more at stake in this exercise than fewer traffic delays. Better coordination in the road reserve reduces costs and the rate of outages caused when diggers hit cables or pipes. There are other gains from utilities undertaking joint works, and where the contractors involved can move from one site to another knowing that the same rules apply and the same notification processes are involved. The sums involved are substantial, with electricity distributors alone spending over \$700 million annually on activities in or dependant on the road reserve.

From the public's point of view there is a lot more at stake in this exercise than fewer traffic delays.

The Infrastructure Bill is mainly about requiring local government and utilities to all buy in to the one 'Code', which looks certain to be the NZUAG's *National Code of Practice for Utilities in the Transport Corridors*. It comes at just the right time, with some elements in the Auckland super-city arena already suggesting that they go their own way, and with quite a few local bodies around the country proving very slow to move towards accepting the national model. What's more, the Bill follows the NZUAG line of extending the 'special relationship' between road controlling authorities and infrastructure providers into the rail corridor, where many of the same issues and opportunities exist.

The collaborative approach that NZUAG has championed, sometimes against quite heated opposition from local or conservative interests, is one of the success stories of the public/private relationship. The NZ Transport Agency, as the country's biggest roading provider, has played a strong part inside NZUAG, as have a number of local bodies. Going forward it would be sensible to try to maintain this focus on collaboration across the spectrum of infrastructure providers as we move into a very intensive investment phase involving fibre deployment and renewal of aging assets.

Alan Jenkins is Chief Executive of the Electricity Networks Association

NEW REPORT ON PORTS INDUSTRY RELEASED

The Local Government Forum has released a report on the performance of New Zealand ports.

Entitled *Port Ownership and Performance: An assessment of the evidence*, the study was undertaken by Dr Brent Layton, a researcher and former director of the New Zealand Institute of Economic Research.

There were major improvements in the efficiency of New Zealand ports following reforms in the late 1980s and early '90s. These included the corporatisation of the former harbour boards, partial listing of some port companies on the sharemarket, and waterfront labour reforms. At the time it was expected that most port companies would eventually be privately owned.

The NZIER study finds that efficiency improvements in the industry appear to have stalled, with some evidence suggesting New Zealand ports may rank towards the bottom end of the ports of developed countries. Reforms in Australia, including the privatisation of most port operations, have seen the efficiency of Australian ports improve and exceed that of some major New Zealand ports.

Contrary to some views, the study finds that most ports have made positive economic returns, although there has been a sharp deterioration in the economic returns of Ports of Auckland, particularly since it was effectively nationalised by the Auckland Regional

Council in 2005.

Rather, the study finds that the problems of local authority ownership are reflected mainly in the barriers to port rationalisation and the introduction of experienced international operators into the management of ports.

Most New Zealand ports have considerable scope to improve their efficiency and the quality of their services and become more competitive and commercial in their pricing.

The study suggests four policy options for examination, namely,

- increased information disclosure
- contestability in container stevedoring where practical
- separation of the roles of port landlord and stevedoring services as in Australia, and
- divestment of shares in port companies to encourage more efficient operations and rationalisation.

Improvements in port industry performance are imperative to improve international competitiveness and export growth. The NZIER study's conclusions were consistent with the advice of the OECD in its last report on New Zealand.

PUBLICATIONS AVAILABLE FROM THE LOCAL GOVERNMENT FORUM

- **Port Performance and Ownership** (Available from www.localgovtforum.org.nz)
 - **Taxing Growth and Development - a critical review of the role of development and financial contributions** (Available from www.localgovtforum.org.nz)
 - **Democracy and Performance: a Manifesto for Local Government** (Available from: nclark@fedfarm.org.nz)
 - **Property Rights Primer** (Available at www.nzbr.org.nz)
 - **Local Government and the Provision of Public Goods** (Available from: nclark@fedfarm.org.nz)
 - **Efficiency and Equity in the Funding of Roothing Expenditures** (Available from nclark@fedfarm.org.nz)
 - **Income and Wealth Redistribution – Should it be a Role for Local Government?** (Available from www.localgovtforum.org.nz)
-

Participants in the Local Government Forum are:

Federated Farmers of (NZ) Inc. (Secretariat)

NZ Business Roundtable

Business NZ

NZ Electricity Networks Association

NZ Retailers Association

NZ Chambers of Commerce

The Forum newsletter is edited by Nigel Billings and Nick Clark: contact nbillings@fedfarm.org.nz