

Newsletter of the LOCAL GOVERNMENT FORUM

Number 12 September 2012

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.

Participants in the Local Government Forum are:

Federated Farmers of NZ (Secretariat)
BusinessNZ
NZ Electricity Networks Association
NZ Initiative
NZ Retailers Association
NZ Chambers of Commerce

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Exciting times in Local Government

By Michael Barnett

Local Government's Reform Challenge

Welcome to this edition of the Local Government Forum's annual newsletter.

In last year's newsletter we focused on local government and the economic growth challenge. There were articles about the appropriate role of councils with major events, the role of economic development agencies, the use of debt, the importance of local roading, and the need for high quality regulation.

Over the years it has felt like we've been a cry in the wilderness but that all changed in March when the Government announced its Better Local Government reform package and confirmed in June with the introduction of the Local Government Act Amendment Bill. Clearly someone was listening!

At the time of writing the Bill is still before the Select Committee and the local government sector is strongly opposing the key change to the purpose of local government. This is the replacing of the activist promotion of social, economic, environmental and cultural well-beings with a requirement to meet the current and future needs of communities for good quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses.

I find this opposition a bit hard to understand. The new purpose is exactly what most people would think local government should be doing. If not there is something seriously wrong.

Feedback I have had from some in local government is that it is not the four well-beings that is the problem but the level of competence (or lack thereof) of some of our mayors and councillors.

I'm not here to judge our elected representatives but if there is a systemic problem with competency then in my opinion this only adds to the argument that local government needs to be constrained.

Unsurprisingly, this newsletter is focused on the Better Local Government reforms. We have articles on the Local Government Bill, the Local Government Efficiency Taskforce, the Productivity Commission's inquiry into local government regulation, the efficiency of local government infrastructure, and the review of development contributions.

The Forum always encourages feedback on its ideas. Let us know what you think.

Michael Barnett is the Chief Executive of the Auckland Chamber of Commerce and Chair of the Local Government Forum

Local Government Efficiency Taskforce

On 7 June the Minister of Local Government appointed a Taskforce to advise him on how to streamline local government consultation, planning and financial requirements and practices under the Local Government Act to make them more efficient.

The Taskforce is one stream of the Government's eight point Better Local Government reform programme which seeks to provide better clarity about councils' roles, stronger governance, improved efficiency, and more responsible fiscal management.

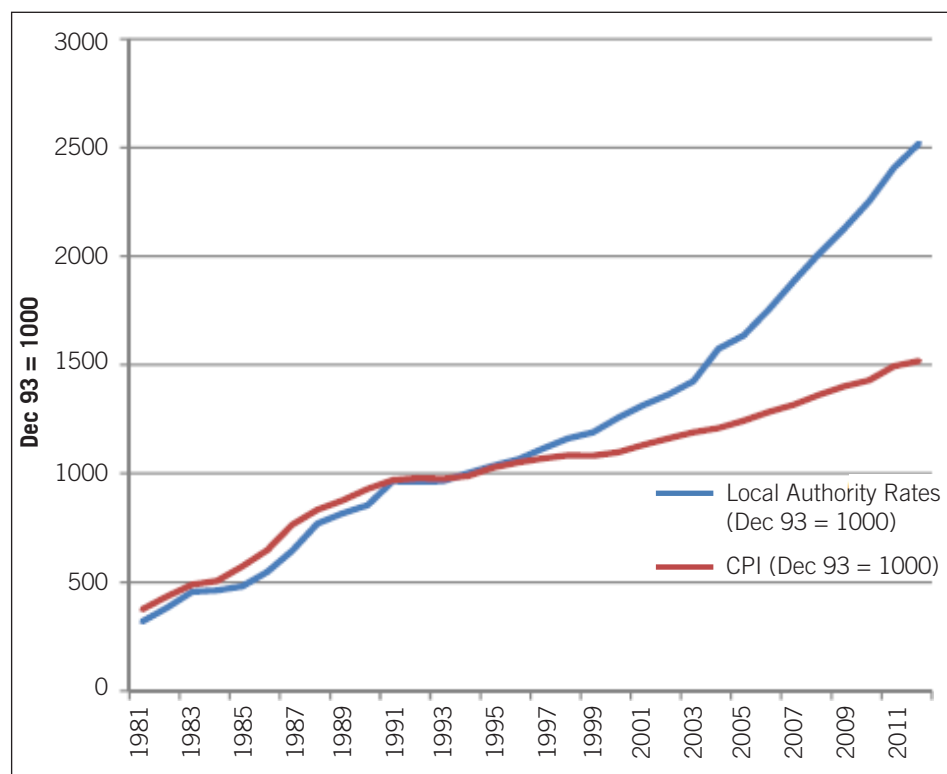
The eight person Taskforce is chaired by Michael Holm, an Auckland lawyer specialising in environmental and public law, and includes several senior, highly experienced local government leaders. Also on the Taskforce is Michael Barnett, Chief Executive of the Auckland Chamber of Commerce, and Chair of the Local Government Forum.

The costs of consultation, planning and financial requirements are a long-standing concern for councils and the Forum agrees

that it makes sense to look at ways to make these requirements more useful, practicable, and effective.

The Taskforce is required to provide its advice to the Minister by the end of October. This timing also makes sense as it would allow recommended changes to be incorporated into the Local Government Act Amendment Bill, which is currently before Parliament.

State of the gap



Graph based on information supplied by the Department of Statistics

This graph has been published regularly in Forum Newsletters, and reflects an expanding differential between local government inflation and that of the wider economy. The cost of local government (both directly through rates and charges and indirectly through the impacts of policies and plans) is a driver of inflationary pressures. The increase in the local authority rates component of the CPI since 1997 is well ahead of the overall rate of inflation. The big worry for ratepayers is the rapid increase of the rating burden in real terms which has not prevented the growth of a substantial infrastructure deficit or spectacular growth in financial indebtedness of some councils. The concern for New Zealand is the impact this ballooning cost is having on economic growth.

Spending, rates and debt to climb

By Nick Clark

Local government spending, rates, and debt are all set to increase by well above the rate of inflation, according to a draft analysis of financial forecasts set out in councils' 2012-22 draft long-term plans (LTPs).

The Government's Better Local Government reforms are intended to focus local government on efficiency and put a brake on the past decade's rapid rates of growth in local authority spending (up 97 percent), rates (up 99 percent) and debt (quadrupling).

Some have claimed that councils are already focusing on efficiency and reducing previously forecast rates of growth in spending, rates and debt. They say that councils are doing this under the current law and that the reforms are therefore unnecessary and could go too far.

An analysis of draft LTPs provides an insight on whether councils really are arresting the growth in spending, rates and debt.

This year, 77 of New Zealand's 78 councils developed LTPs for 2012-22. The exception is Christchurch City Council which did not do a LTP and instead did an annual plan for the coming year only.

Federated Farmers has compared the spending, rates and debt data from the 77 draft LTPs. It found that for the coming 2012/13 year local government operating spending will be up 3.2 percent, rates revenue will be up 3.0 percent and debt will be up 12.4 percent. These rates of increase are all much reduced on those over the past decade but they are still higher than general inflation, which is currently at around 1 percent.

Meanwhile, over the coming 2012-22 decade spending (up 49 percent), rates (up 58 percent) and debt (up 97 percent) are all forecast to increase strongly. Although these rates of increase are smaller than those for the previous decade, they are still well above the likely rate of increase of the consumer price index, likely to be 20-30 percent over the period.

Given the high costs likely for rebuilding Christchurch's earthquake damaged infrastructure and community facilities, the rates of increase of spending, rates and debt will most probably be even higher if Christchurch City Council was included.

Indications from councils' final adopted LTPs is that while some councils have further reduced their forecast increases in spending, rates, and debt, others have increased them and the net effect overall is unlikely to be significantly different.

The conclusion the Forum draws from this analysis is that while many councils can and should be commended for their restraint this coming year, reform is still needed to focus all councils on reducing the longer-term growth in spending, rates and debt.

Nick Clark is General Policy Manager at Federated Farmers of 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

Local Government Bill: Window dressing or end of the world?

By Jeremy Harding

The proposed amendment to the Local Government Act which redefines the purpose of local government is ruffling a few feathers in the sector but will it make a real difference to the scope of local government activities?

The Local Government Act Amendment Bill, currently before Parliament, will replace the requirement for local authorities to promote the social, economic, environmental and cultural well-being of their communities with a requirement to focus on "good quality local infrastructure, local public services and performance of regulatory functions."

Some in local government see the proposed changes more about window dressing and aren't expecting any significant change. Others are fearful that it will change the face of local government as we know it. The Local Government New Zealand conference in Queenstown, for example, resolved that all 78 councils will "pressure the Government to keep the "four community wellbeings" enshrined in legislation".

The Local Government Forum supports the thrust of the changes in the Bill but is equally concerned that, as currently drafted, it would not adequately define the activities of local authorities or go far enough in constraining them.

The reason for this is that in the Forum's view the scope of current local government activity, as mandated in the current purpose, is too broad.

Since 2002 the Local Government Act has required councils to actively promote the "four well beings". The intention was surely well-meaning – it is hard to argue against community wellbeing – but the Forum believes the "four wellbeings" have been a factor behind the explosive growth in council

spending, rates, and debt over the past decade

From 1992 to 2002, prior to the old Act being put in place, local government rates increased by less than four percent per year. Since 2002 this rate of increase has grown to nearly seven percent per year – a doubling of the rate take in just over ten years. If rates had increased at the same rate as the preceding decade, the average household would be paying \$500 per year less in rates and the economy as a whole \$1 billion per year less.

The blow-out is clear evidence that councils need greater clarity on their roles and responsibilities. Basically the change gave councils a green light to do whatever they could to try and improve wellbeing. It has helped generate extravagant public expectations of what councils should be doing and has made it hard for councils to say 'no'.

While the aim of the legislation is to tame the growth, the Forum is not sure that the proposed new purpose statement goes far enough. "Good quality local infrastructure, local public services and performance of regulatory functions" can be interpreted widely and more specificity is needed.

For this reason, the Forum has recommended that councils focus on 'public goods'. These are essentially goods and services that the private sector is unable to provide because they can't easily be charged for. The Bill's explanatory note implies a focus on public goods is the intention when it says local authorities should supply services that only councils can provide or roles that only they can perform. The Forum thinks including a technical definition of public goods should be included in the Bill.

Consideration should also be given to enumerating the activities that councils may undertake. This would limit the scope for ambiguity over what councils can do.

Without a tighter definition of council purpose and a fiscal responsibility requirement, it is entirely possible that the legislation will make no real difference to the scope of local government activities and the meteoric rate rises experienced in the last ten years will continue.

Another important component of the Bill is the measures to streamline procedures for the reorganisation of councils.

Large councils aren't necessarily more efficient than small ones and so rate-payers must be vigilant against the creation of large bureaucracies. However, where it can be shown that reorganisation would result in better outcomes, it is important that the Act not be allowed to impede change.

One area where the Bill's provisions fall short is that they assume merged councils will fit the existing regional council/ territorial authority and the unitary council models. Variations of these, such as a "two tier unitary model", as was created in Auckland, would not be available under the Bill as proposed.

The large size of some potential merged councils, such as Wellington for example, means there is a need to retain close links with ratepayers. It is therefore important that a model which also does this is allowed for in the Bill.

Jeremy Harding is Manager, Policy and International at the Wellington Employers Chamber of Commerce

Regulation under the microscope

By Louise Evans

One of the more important aspects of the Better Local Government reforms is local government's regulatory performance. Although nowhere near as 'sexy' than the heated debates about the appropriate purpose of local government or whether councils should or shouldn't be merged,

regulation is a key role for local government and its performance has real impacts on people and businesses.

The Government has asked the Productivity Commission to undertake an Inquiry into local government regulatory performance

and the Commission is currently considering submissions on an issues paper.

The Inquiry's terms of reference can be boiled down to the three key questions:

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1. How can the allocation of regulatory functions between central and local government be improved?
2. How can central and local government improve regulatory performance in the local government sector?
3. How can the regulatory performance of the local government sector be measured in a manner that leads to continuous improvement in the way it regulates?

In its submission to the Issues Paper the Local Government Forum recommends that the allocation of regulatory functions between central and local government should be decided on a case-by-case basis. Factors to consider include local or regional preferences, economies of scale, economies of scope, externalities, information, innovation, competition, consistency, national priorities, capability and capacity, governance, and constitutional considerations. Different factors may be more or less important depending on the regulatory issue.

The Forum believes that fundamental concerns with current regulation, particularly major regimes such as the Resource Management Act (RMA) need to be addressed if the regulatory performance of local government is to be improved. Two related concerns are also raised.

First, there is often inadequate recognition of private property rights including the provision of compensation for regulatory takings where appropriate. Second, excessive discretion is often delegated to regulators. Instead, simple, non-discriminatory and transparent regulatory policies and rules with low costs of engagement and compliance are required.

The largest contribution to improved economic and social outcomes is likely to arise from a first principles review of the most important regulation administered, in whole or part, by local government. The RMA and the Building Act are key candidates for such a review. Aspects of both acts have been reviewed in recent years but not from a 'first principles' perspective. Other regulatory

regimes should be reviewed on a similar basis from time to time.

A vitally important issue is to improve the quality of new regulation. One step would be to apply the principles of the Regulatory Standards Bill, currently before Parliament, to local government regulation.

The Forum has also submitted that external monitoring and comparison of the regulatory performance of local authorities in undertaking their main regulatory functions, together with periodic independent reviews of regulatory regimes on a first principles basis, are likely to generate the largest continuing net improvement in the regulatory performance of local government.

The Forum and its individual members are looking forward to engaging with the Productivity Commission as it works through its Inquiry.

Louise Evans is Government & Advisory Group Manager at the NZ Retailers Association

Community savings in efficient infrastructure

By John Pask

Local Government is a significant and important part of the NZ economy and plays a vital role in advancing the overall wellbeing of New Zealanders.

Many current local government services involve considerable infrastructure investment; water and waste services, for example, are crucial in a well-functioning society. Invariably, this investment is an on-going cost to ratepayers, not only the initial capital expenditure cost but subsequent debt servicing and maintenance costs as well.

Perhaps unfairly, many services are taken for granted, without serious consideration of their real cost. This may be because with some services, such as stormwater, the cost is not at all clear. For many ratepayer households the cost is hidden inside their general rates bill.

Given the magnitude of investment in local government infrastructure and ratepayers' exposure to bad and inefficient investment decisions, all local government infrastructure expenditure should be soundly thought through. Ratepayers, or more correctly, service users, should understand the essential cost and receive clear incentives and pricing signals so services are used efficiently and over-investment and wastage are avoided.

In this respect it is timely that the second stage of the Government's 'Better Local Government' reform programme includes a specific investigation into efficient infrastructure provision.

As a useful case study, Water New Zealand and the Council for Infrastructure Development recently (July 2012) released a report on the performance of water and wastewater operators in order to identify areas for improved performance.

While the study was limited to water and wastewater, the results provided some useful pointers which are likely to affect other areas of local government-provided infrastructure.

- Security of funding is fundamental to well-performing infrastructure
- Water infrastructure operates under a plethora of sometimes outdated and often poorly understood legislation
- Larger operators scored better results. Increased size fosters a strategic focus, economies of scale and specialisation and staff specialisation.
- Resistance to change on the part of communities is inhibiting many operators from implementing changes to governance arrangements and funding models.

The study presented opportunities for improvement including, facilitating increased scale and improved strategic focus through amalgamation, shared service arrangements and so on. The study also pointed to the need to build community understanding of the potential benefits of different pricing arrangements as alternative funding mechanisms, including improving demand management.

Finally, the report emphasised the need to develop and adopt best practice in investment appraisal and procurement decision-making frameworks.

None of the above is rocket science. It is simply a realisation that if ratepayers and users are to be provided with cost-effective and efficient services, they need to be aware of the costs involved. For its part, local government must be mindful of fact that costly investment decisions imply risks that are ultimately sheeted home to ratepayers (or taxpayers) in one form or another. This requires a sound framework for local government (and indeed any central government) investment in infrastructure provision.

John Pask is an economist at BusinessNZ

Under the spotlight: Development contributions

By Luke Malpass

Concern about the cost of development contributions and inconsistent applications by councils has prompted the Government to undertake a review of development contributions. This is the eighth and final strand of the Better Local Government reform package. It will take place after the Office of the Auditor General has reviewed councils' 2012-22 Long Term Plans.

In March 2010 the Local Government Forum and Property Council New Zealand released a joint report *Taxing Growth and Development*, a critical review of the role of development and financial contributions. The report's main recommendations were:

- Prices rather than development and financial contributions should be charged for goods and service where they are feasible and appropriate.
- There are grounds for imposing the cost of some genuine public goods on landowners who benefit but in the case of development and financial contributions

there should be a close connection between the subdivision or development on the one hand and the relevant infrastructure and facilities on the other.

- Developers should have the right of appeal against the requirement to fund public goods, as is presently the case for financial contributions but not for development contributions.
- Introduce a value for money test for establishing the reasonableness of council requirements and charges, or alternatively place a cap on the maximum level of development contributions.

The Productivity Commission also commented on the impact of development contributions its recent inquiry into *Housing Affordability*. Although the Commission supported the principle of development contributions, it found that contributions vary considerably and the level of charges can be significant and can impact on housing affordability.

The Commission found that it is difficult to design and implement charges for infrastructure that accurately reflect incremental costs and it observed that there is concern about the way development are applied. These concerns relate to their efficiency, impacts on housing affordability, whether they should be levied up-front or over time, the transparency of the processes through which they are determined, and the capabilities of councils to set charges. It suggested that the 2003 Best Practice Guidelines to Development Contributions should be updated and made a legal requirement for councils to follow.

The Local Government Forum looks forward to the Government's review which will hopefully result in changes that can be included in a Local Government Reform Bill intended for 2013.

Luke Malpass is a Research Fellow at the NZ Initiative

Commissioners for Kaipara

On 29 August Local Government Minister David Carter released a report into the Kaipara District Council and announced the appointment of four commissioners to replace the elected councillors.

The commissioners appointed are John Robertson (Chair), Richard Booth, Colin Dale and Peter Winder.

The review of Kaipara Council's performance by the government-appointed Kaipara Review Team led to the Council requesting commissioners take over governance of the district. Appointing commissioners under the Local Government Act was also the review team's central recommendation.

According to the Minister, the review team identified "serious governance and financial challenges" that are beyond the current councillors' ability to resolve".

The commissioners are likely to be required until 2015, so the Government is proposing to defer the 2013 election for Kaipara District Council until October 2015.

The Government's decision to appoint commissioners reflects the significant workload ahead in rebuilding the relationship between the Council and the communities of Kaipara. The Local Government Forum wishes the commissioners every success in their challenging task.

Recent publications available from the Local Government Forum

- 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)
- Taxing Growth and Development – a critical review of the role of development and financial contributions (Available from www.localgovtforum.org.nz)
- Port Performance and Ownership (Available from www.localgovtforum.org.nz)