

Submission

Reinvigorating local democracy



PREPARED BY: Ashburton District Council
PO Box 94
Ashburton 7740

SUBMITTED TO: Dr Mike Reid
Principal Policy Advisor
Local Government New Zealand
PO Box 1214
Wellington 6140

Rachel Thomas; Policy Advisor
Rachel.Thomas@adc.govt.nz

Introduction

1. Ashburton District Council ('Council') welcomes the opportunity to submit on Local Government New Zealand's discussion paper *Reinvigorating local democracy: the case for localising power and decision-making to councils and communities*.
2. Located an hour's drive south of Christchurch, more than 33,400¹ residents live in the district, with the main town of Ashburton accounting for over 50% of residents. The rest of our residents live rurally or in smaller towns or villages.
3. Ashburton District has experienced moderate and sustained population increase since 1996, with growth of over 33%². The expansion of irrigation and agricultural diversification on the Canterbury Plains have been major factors in this growth.

General discussion

4. Council supports the general intent of Local Government New Zealand's LocalismNZ project.
5. Council's main concern is that while localism could improve the effectiveness and efficiency of councils in responding to local needs, it could also significantly increase community expectations and resourcing requirements.

Submission questions

Question 1 - Do you agree with the three recommendations of devolution, negotiated devolution and removing constraints?

Question 2 - if not, what would you change?

Devolution

6. There are many functions of local government which are successfully devolved from councils to community or representative citizen groups, or organisations. We support efforts to devolve certain function or services but agree that there are many other areas which could benefit from devolution.

¹ Source: Statistics New Zealand Census 2018

² Source: Statistics New Zealand Population Estimates 30 June 2018

7. Management of freshwater in Ashburton District provides an example of devolution in action where a representative group of community members, council representatives and iwi work together to make recommendations on local water issues.
8. Water is governed by institutional arrangements which operate at national, regional and local levels through the Resource Management Act 1991, and the Local Government Act 2002. In Canterbury, collaborative methods have been introduced in an attempt to break a gridlock of regional conflict over water that has occurred since the Resource Management Act 1991 was enacted.
9. The Land and Water Forum (LAWF) (established in 2008) started a national dialogue regarding collaborative efforts towards freshwater management. The Canterbury Water Management Strategy (CWMS) (which was reinforced by the LAWF in 2009) was developed as a non-statutory framework to promote consensus-building through collaborative governance.
10. Through the CWMS, Canterbury is divided into ten zones for water management, with each zone having a committee of local people. In Ashburton District, the Zone Committee successfully debates and makes recommendations on water governance that take into account local needs and circumstances, which often differ from other areas of Canterbury.
11. The Zone Committee is an example of successful devolution and we fully support the continuance of the devolved collaborative governance structure. We believe this model of devolution should be considered in other areas of New Zealand to foster collaborative governance and allow the community to have a direct role in making recommendations on water governance.
12. Unfortunately, recent legal action taken by Forest & Bird NZ threatens to unravel the collaborative structure and undermines the devolution of water governance to a local level. The Office of the Auditor General have withdrawn the exemption for Zone Committee members to participate freely in all discussions in response to Forest & Bird's actions. Central government should ensure that when devolving responsibility to local government, controls are in place to protect the autonomy of local representative groups.

Negotiated devolution

13. We note that the Localism document makes the case for enabling 'negotiated devolution', i.e. enabling councils and organisations to apply to run public services. We support this approach and provide the following recent example of the tendering of service for the refugee resettlement support services.
14. Ashburton District was announced as a refugee resettlement area in July 2019. The Refugee Resettlement Programme is guided by the [Refugee Resettlement Strategy](#). Immigration New Zealand manages the programme.
15. The setting of strategic direction at a national level is crucial to ensuring the programme's success. However, there is a need for a local response as the well-being needs of refugees will differ on many aspects, including country of origin, and characteristics of the settlement area.
16. The approach taken by Immigration NZ was to tender for the services of resettlement in each jurisdiction, with a focus on service provision that understood the local context well. The tender process ensured local needs were considered, and supported a localist approach in allowing local organisations to tender for services.

17. While Council did not apply to provide these services, a local social service provider that is significantly funded by Council did. This example shows Council partnering with central government and local organisations in tailoring a national programme to local needs.
18. We therefore support a negotiated devolution approach where councils or other local organisations may apply to take over a service but suggest LGNZ consider how this would be implemented. A risk of this approach is that the community may expect and pressure councils or organisations to take on services for which they may not have the capacity or capability to deliver.

Removing constraints to local decision-making

19. We agree that legislative and regulatory constraints often get in the way of local decision-making. There are many examples of this occurring, one of which is the development of a local alcohol policy (LAP).
20. The Sale and Supply of Alcohol Act 2012 devolved responsibility of managing alcohol to councils, in particular for deciding how alcohol is bought and sold at a local level. The policy mechanism gives councils the ability to adopt LAPs that are either more or less restrictive than the conditions in the Act. LAPs are not mandatory under the Act. However, an absence of a LAP means the council relies on legislative constraints.
21. Council began work on the LAP in December 2012, however the LAP did not come into force until August 2017. A large number of submissions (207) were received on the LAP, which resulted in three appeals being received from large corporations. The appeal process was resource intensive, and costly (legal advice was required throughout the process), requiring a significant time commitment from Council staff and elected members.
22. The costs and process of developing and adopting a LAP need to be considered against the actual benefits. The constraints imposed by the Sale and Supply of Alcohol Act 2012 regarding the process for adopting a LAP limit the success of devolving this function to councils. During the next review of the LAP, Council officers will be assessing the benefits of adopting a local approach given the 'legal hoops' to jump through and cost to ratepayers.

Question 3 - What, if any, functions currently provided by central government should be devolved to councils and other local organisations like Iwi/Māori and not for profit organisations?

23. Council notes there are many functions currently provided by central government which could be devolved, as detailed on p.21 of the Localism document.
24. Of particular note, social well-being is an area which could be better provided on a local level. Local government has a limited and ambiguous mandate to act in this space. A devolved approach would permit local solutions to be tested on local problems. Solutions could be amended as required (not set in stone as often they are with national level policy), leading to innovative and effective service delivery.
25. Social housing is also an area which could be devolved to councils and other local organisations. The social housing mandate is a confusing space for councils, subject to the preferences of the government of the day. We note the designation of 'community housing providers' is one step towards devolving services to a local level. However, clarity is required on the expectations of councils in providing this service.

Question 4 - What, if any, central government responsibilities would be more effective if your council, or other local organisation, applied to take them over under the negotiated devolution approach?

26. Without thorough analysis, Council does not consider it appropriate to detail services it could provide in the future. Investigation would need to consider a thorough cost-benefit analysis of the central government responsibility as well as if Council providing the service would improve the well-being of residents.

Question 5 - Can you identify legislative and regulatory constraints on councils and other local organisations that limit their ability to be responsive to local needs?

[Sale and Supply of Alcohol Act 2012](#)

27. The constraints placed on councils in developing LAPs are discussed earlier in this submission. We believe the legislative constraints will lead many councils to question the value in producing a local response to managing the sale and supply of alcohol.

Question 6 - What additional form of funding or tax should councils have access to in order to meet community expectations and address future challenges?

28. Council submitted in support of local government accessing additional funding through its submission on the *Productivity Commission's Local Government Funding and Financing Draft Report*.
29. In the submission, we supported the following:
- Accommodation levy
 - International visitor levy – proportionate to the number of visitors an area receives.
30. We did not support:
- Taxation on vacant land – the discussion neglected to clearly define ‘vacant land’ and the rationale behind this scheme.
 - Removing the uniform annual general charge and differentials – Council uses these rating tools to equitably distribute rates.
 - Capital charge – asset management can be incentivised in other ways.
31. Our submission on the Issues Paper, released prior to the Draft Report, requested investigation into the setting of the New Zealand Transport Agency’s funding assistance rate (FAR). The setting of the FAR could consider the gross domestic product of the territorial authority in an attempt to provide more region specific funding.
32. Furthermore, in our submission on the Issues Paper we also expressed concern for the road user charges (RUC) system. This system favours the area where the vehicle is registered, given charges are retained where the vehicle is registered. Many national level businesses (such as transport or agricultural companies) purchase RUC through their head offices but use these all over New Zealand. As a district that experiences high traffic flow through the roading network, this is seen as inequitable to manage the costs of high usage of the roading network.

33. We also suggested returning the goods and services tax (GST) on property rates to local authorities to help relieve funding pressures on council services and infrastructure.

Question 7 - What process should councils go through in order to implement a new levy or tax?

34. Council agrees that the current funding and financing system of local government does little to encourage growth. As mentioned above, we support returning a share of GST to the area in which it was spent.
35. We support the process proposed in the Localism document for implementing a local levy or tax to meet exceptional demands. We note this includes evidence of community support, and a robust regulatory framework. The risk of this approach is the judgement required to grant a new tax. Councils are likely to want what others have, as shown by the implementation of the regional fuel tax in Auckland. This could be problematic if some councils are granted the ability to implement a tax over others.

Question 8 - Do you agree that the government's annual well-being budget process should be informed by priorities set by each community?

36. In theory, the idea of councils setting priorities to inform central government's well-being budget distribution is supported.
37. We note the re-introduction of the well-being's demands a more localist approach to service provision and an expectation that more 'people based' activities are provided. However, while this framework has been established there is no consensus amongst the sector about how to 'do' well-being.
38. Requiring local government to develop priorities which can inform central government's budget process may provide the missing link between legislation and practice. Yet it is crucial that the process is clear and appropriately documented (such as a requirement in the Local Government Act 2002), but must also provide enough flexibility for councils to address their unique needs.
39. We support the Government's holistic approach in developing budgets on a well-being basis. For our Long-Term Plan 2021-31, we plan to utilise the well-being framework to tell the story of our district and plan for the future, for both our community and our elected members. We have conducted an environmental scan, which considers what each well-being means to Ashburton District. Our business case template requires staff to link their proposal to well-beings. We are therefore attempting to incorporate a well-being focus in our strategic decision-making and future planning.
40. During this process, it has become apparent that every jurisdiction will have a different conception of well-being. Being a primarily agricultural area, our priorities are very different to that of an urban area. This realisation enforces the localism agenda, however we believe the discussion on localism should be wary that well-being must be measured unique to local circumstances.
41. We support the development of data analysis tools to measure well-being; however, implementing one set of measures for all jurisdictions works against the localism manifesto and we would not support this.

Question 9 - What roles could councils play to ensure that government spending on well-being addresses local needs and priorities?

42. Central government could establish a 'well-being' fund for councils to apply to, similar to the establishment of the Provincial Growth Fund (PGF). The PGF has been granted both for individual regions and for New Zealand as a whole.
43. Our district has successfully applied to the PGF for the Opuke Thermal Pools and Spa in Methven (\$7.5 million of loan-funding), and the Ashburton Second Urban Bridge (\$94,250 grant). Council notes there are several projects being funded which have a Canterbury specific or New Zealand wide focus of which Ashburton District benefits. Applications from a well-being fund should be considered on both a regional and a national perspective given many well-being initiatives occur at a national or local level.

Question 10 - Do you agree with the suggestion of local well-being plans and reports?

44. Local well-being plans and reports could help council meet the statutory obligation to promote social, economic, environmental and cultural well-being of current and future communities (s.10, Local Government Act 2002). However, such plans require resourcing for development and monitoring. There is a risk that accountability could increase to the extent that councils are hamstrung by these plans, thus impacting on the ability to carry out core service delivery.
45. Council is pleased the well-beings have returned to the LGA, however is concerned at the lack of direction from the government regarding how these well-beings should be measured and personified.
46. The Society of Local Government Managers and Infometrics NZ have both developed tools for measuring well-being. Council believes well-being should be determined through a localist approach – there will be different pressures faced by different regions. As such, it is important to balance the desire for a framework to guide local well-being, with the ability of councils to determine unique well-being needs.

Question 11 - What additional approaches could be used to strengthen participation in local government decision-making?

47. In the Localism document, it is suggested that both sub-municipal bodies and participatory budgeting are tools for deepening democracy. We have only one community board in the district – the Methven Community Board (MCB). When reviewing our representation arrangements in 2018, we decided to retain MCB. However, during our triennial elections we received only four nominations for MCB – forcing a by-election. We fully support the existence of community boards to represent smaller communities of interest, however it is important these groups are devolved an adequate level of responsibility.
48. In the Localism document, reference is made towards participatory budgeting on a ward basis. While Council supports inclusive engagement methods, we would be concerned that such processes could be unrepresentative of the wider community given the difficulty in engaging with and recruiting hard-to-reach groups (i.e. youth and the migrant population).
49. For our Long-Term Plan 2018-28, we ran a campaign called Our Place which gave the community the opportunity to determine the priorities for the future. The Delphi method was utilised to allow participants to come to an agreed consensus. The campaign allowed us to target those we do not normally hear from, and treated all feedback as equal.

50. Engagement approaches must be tailored specific to individual communities, therefore we caution against recommending specific approaches to strengthen participation.

Question 12 - What needs to change to strengthen relationships between councils, Iwi/Māori, business organisations and the community/voluntary sector?

51. Collaboration across the sector is challenging, given the different priorities of different groups. Requiring Māori representation on council groups is one way to strengthen relationships but may not be possible in every circumstance.
52. We note the Local Government Act 2002 Amendment Act 2019 now requires local authorities to consider whether knowledge of tikanga Māori is relevant to the governance of the council controlled organisation. We support this inclusion.

Question 13 - Do you agree that legislation will solve the unfunded mandates and cost shifting problem?

53. We support the contention that legislation is required to address this situation, however we acknowledge that in many instances it will be difficult to estimate the costs of new policy or legislation. Such legislation would require the government to carefully consider the implications of any policy decisions requiring local response, however could have the negative effect of delaying legislation.

Question 14 - Are there other measures that you would recommend to reduce costs being imposed on councils?

54. The Productivity Commission's inquiry into local government funding and financing addresses the cost pressures faced at a local level. We strongly urge the Government to act on these recommendations once a final report is released.

Question 15 - What else could be done to protect the constitutional status of local government?

55. Local government's mandate is dictated by the government of the day, and in recent years this has seen the well-beings coming on and off the agenda. The focus shifts between a core service-delivery role to one focussing on well-being, depending on the government's inclinations. This shift in focus is confusing for elected members and Council staff, as well as the community. The Long-Term and Annual Plan process is challenged by the change in ideology – which is also a difficult message to communicate to the community.
56. Council believes the lack of a constitutional status for local government challenges the relationship between local and central government. The absence of a framework for determining what should be managed at a local versus national level has led to 'the buck being passed' on issues that may have benefited from a uniform national approach. Likewise, issues that would benefit from a local approach are often retained by central government.
57. There have been positive steps made in clarifying how local government should carry out its duties under the Local Government Act 2002 but it could be argued that central government need to provide stronger leadership and take responsibility on contentious policy issues.
58. Council also notes there is no Ministry for Local Government, which means the local government functions are dispersed across government departments. Councils would

benefit from a direct link between local and central government, which could be provided by such a Ministry.

Neil Brown.

NEIL BROWN
Mayor