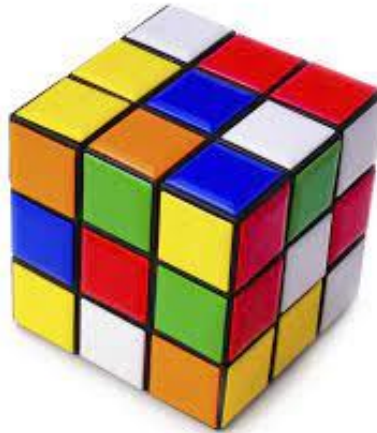


# **SUBMISSION**

**ON THE NZ INFRASTRUCTURE COMMISSION'S  
INFRASTRUCTURE STRATEGY CONSULTATION DOCUMENT**

**FROM**

**FEDERATION OF RATEPAYERS  
ASSOCIATION OF NZ INC.**



**2<sup>ND</sup> JULY 2021**

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## 1. EXECUTIVE SUMMARY

The Federation of Ratepayers Association of NZ Inc. (FoRA NZ henceforth) key submission points are as follows:

The Commission has not achieved its ‘main purpose’ which is to coordinate, develop and promote an approach that will encourage infrastructure that improves the wellbeing of New Zealanders.

This discussion document does not identify nor evaluate ‘approaches’ to encouraging infrastructure that improves the wellbeing of New Zealanders. Rather, it has applied a scatter-gun approach to naming a mixed-bag of potential options for dealing with specific infrastructure challenges, none of which are a functional role of the Infrastructure Commission. Each of the aspects targeted by the Commission within this document, fall squarely into the purview of some other agency of Government (or local government/councils).

The discussion document has presented us with an infrastructure-centric ‘vision’ for infrastructure, and a limited and limiting array of ‘outcomes and principles’ purporting to represent what New Zealanders’ wellbeing might consist of in 2050.

The provisioning of/with ‘infrastructure’ is but one means communities have (via their local authorities for example) to provide for their shared interests and to manage progress towards the outcomes they collectively seek (by majority in chambers or in Parliament). It is the case that delay, sequencing, and/or withholding expanded, upgraded or new infrastructure can and often does achieve similarly (i.e. the desired outcomes and wellbeing). Communities of shared interest at local, district, regional and national scales should be central to determining what outcomes and principals ought to underpin the processes informing and the decision-making criteria pertaining to managing and providing particular infrastructure, depending on the scale and type of infrastructure.

If the Commission were to investigate challenges for and limitations in strategic planning by central Government agencies (and by local councils or authorities), it may be that requiring a rapid uptake of the new “Public Service Act 2020” is part of the remedy to what ails us, with respect to national infrastructure planning and delivery. It may be that requiring the State Services Commission to establish “required competencies” for specific types of professional advisors to elected representatives would assist with efficacy in planning for and in delivering infrastructure, as well as establishing “required competencies” for managing and delivering infrastructure.

In attempting to deliver a ‘proposed’ Infrastructure Strategy for NZ, the Commission has highlighted a lack of understanding of the current ‘system’ or approach to managing and providing infrastructure at a national level, at sub-national levels, as well as at regional and or district levels. The Commission appears to be duplicating and confounding issues associated with

managing, planning for and providing infrastructure (to the right place, at the right time, as efficiently and effectively as possible) by the relevant agencies (or local authorities) tasked with these functions.

FoRA NZ requests the Infrastructure Commission review its efforts to date and reconsider its purpose in light of the legislation that established it. We suggest a rethink is needed, of the useful steps the Commission might take, in contributing to questions of “how might NZ best position itself, and what approach would be best, with respect to managing and developing physical infrastructure over the next 30 years?”

In FoRA NZ’s view it is not necessary for the Infrastructure Commission to attempt to produce an “infrastructure strategy” for NZ, when there is a plethora of agencies of Government (central and local) engaging in this very same work, with the specialist knowledge and built for purpose functions and powers to enable them to deliver what is needed, when it is needed – if that is what they intend to do, in accordance with the democratically elected ‘governors’ overseeing the work of each agency.

FoRA NZ wishes to underscore the importance of local, participatory planning and engagement with the directly affected (private) stakeholders (ratepayers and residents) who must make use of and pay for the provision of infrastructure, whether it be provided by public agencies or by private delivery agents. We (ratepayers and residents) are also those most directly and indirectly impacted by poor quality planning and when less than adequate infrastructure services are delivered, or are unable to be met by ourselves. There is yet to be any public discourse (or engagement with us as Ratepayers), or disclosure by Government as to what it thinks the demonstrable problems and/or challenges are vis a vie local, regional, sub-national and nationally provided infrastructure.

We understand there are localized issues and we are aware of instances of serious events associated with failure of infrastructure, such as the Havelock North contaminated water incident. However, that is an infrequent event given the number and scale of water supply systems across the country, and compared to the increase in food poisoning within NZ that led to the review of the previous Food Act, in favor of a very different approach to public safety with respect to managing and providing food, as outlined in the new Food Act, 2014. When pipes burst in small towns, it is not the crises akin to water mains bursting in central Wellington. It is a legitimate and rationale asset management approach, to allow pipes to age to a point of a certain frequency of ‘leaks’ (or burst pipes) per set length of pipe, prior to replacing that part of the network. Aging infrastructure is not in and of itself an issue, but a part of managing inground infrastructure. We have experience of renewals and upgrades, to provide timely maintenance and to cater to growth and development, just as much as we have experience of inordinate delays in securing higher levels of service, renewals and upgrades. The later tend to be a feature of politics, rather than systemic problems within ‘the approach’ to infrastructure within New Zealand.

We are yet to see strong, impartial evidence of the systemic failures often alluded to or as stated in various reports to government.

In our view, the proposed Infrastructure Strategy is remiss in neglecting participatory processes with communities of interest to any infrastructure, as the consumers/users of infrastructure, but also as those who must fund it. The proposed outcomes and principles are silent on concepts associated with participatory planning, engagement and consultation. Transparency is not a substitute for inclusive approaches.

We also wish to underscore the importance of democracy to FoRA NZ, and the principles underpinning it in practice (e.g. that enable participatory processes), at all levels of government. An issue causing conflict in local communities currently, has been the erosion of democracy (premised on principles of transparency, equity, accountability, inclusion, etc) and of opportunities to engage with developers) when significant communal assets have been transferred to Council Controlled Organisations, or divested to (placed with) other unelected entities (Community Trusts).

## 2. INTRODUCTION

**The Informal or Operative name is NZ Ratepayers Association**

**The objectives of the Association are to:-**

- Establish, facilitate and enable a nation-wide network of ratepayer and resident associations;
- Support ratepayers and residents' associations of New Zealand;
- Prepare and disseminate civics education, and information about the work of local authorities and of Government as it affects ratepayers (for example, in delegating or devolving powers and functions to local authorities);
- Undertake research and otherwise prepare information and advice for ratepayers' associations about practices in the work of local authorities;
- Provide an advisory service to ratepayers' associations;
- Distribute information about the work and performance of local authorities;
- Provide a one-stop-shop or repository of information and advice for ratepayers' associations;
- Provide a communications role on behalf of ratepayers' associations on national matters of relevance to ratepayers;
- Be the national organisation able to pool and share resources and efforts to investigate matters of public interest with regards the functions, powers and work of local authorities (i.e. councils, in their various types).

FoRA NZ would like to highlight for the NZ Infrastructure Commissions consideration, the important concept of “civics”, which is the study of the rights and obligations of citizens in society. The term derives from the Latin word *civicus*, meaning “relating to a citizen.” Civic(s) education is the study of the theoretical, political and practical aspects of citizenship, as well as its rights and duties. (<https://en.wikipedia.org>). And from the Oxford Dictionary: “Civics - the subject that studies the way **government** works and deals with the rights and duties that you have as a citizen and a member of a particular society.”

It is FoRA NZ’s view that private property owners as Ratepayers are a particular, specific category of ‘citizen’ with specific rights and obligations pursuant to the Rating Act, that ought to give rise to a special ‘stakeholder relationship’ with local authorities (which demand ‘Rates’ from them to fund local infrastructure, local authorities themselves and the array of other functions and services the local government sector provides), as well as with the Infrastructure Commission.

Ratepayers have a special interest in the conduct of functions and affairs of local government authorities, including the Council Controlled Organisations (CCOs) established to manage significant communal (or public) assets, including essential and strategic infrastructure assets.

The Committee of the FoRA NZ has prepared this submission with the aim of opening a broader conversation with the relatively new NZ Infrastructure Commission and with the NZ Government, about how each perceive of private property owners’ rights and obligations, as citizens subject to the provisions of the Rating Act which empowers local authorities to “demand” rates from us. It ought to be recognized by the Infrastructure Commission, that is Ratepayers who fund the operation of councils, as well as local infrastructure managed and built by councils on our behalf.

### **3. THE PRODUCTIVITY COMMISSION**

In light of the process as undertaken by the NZ Infrastructure Commission to date, FoRA NZ wishes to note the establishment of a NZ Productivity Commission a decade ago. The “[NZ Productivity Commission Act 2010](#)” provides its principal purpose is “to provide advice to the Government on improving productivity in a way that is directed to supporting the overall well-being of New Zealanders, having regard to a wide range of communities of interest and population groups in New Zealand society” (S7 - Purpose of the [Productivity] Commission).

That Commission has undertaken several inquiries and provided ‘insights’ into the local government sector, some of which are referenced in Section 9 of the Infrastructure Strategy Discussion Document. It has also undertaken an inquiry into ‘housing affordability’, and other sectors where certain ‘physical infrastructure’ is provided by private investment decisions. It does not appear to have investigated the productivity of national infrastructure providers, such as Government agencies (e.g. Ministry of Education, Ministry of Justice, Department of Corrections, Ministry of Health), as well as State Entities (e.g. NZTA) and S.o.E.s (e.g. Transpower), or the

productivity of private enterprise (e.g. the telecommunication companies, electricity, gas and oil retailers). It must also be acknowledged that there are other authorities at national level with a roles in infrastructure, such as the Electricity Authority (formerly, Electricity Commission, 2010).

#### **4. THE LOCAL GOVERNMENT ACT, 2002**

FoRA NZ also wishes to note, for your consideration, the Purpose of the Local Government Act 2002, as amended in 2019.

“The purpose of this Act is to provide for democratic and effective local government that recognises the diversity of New Zealand communities; and, to that end, this Act—

- (a) states the purpose of local government; and
- (b) provides a framework and powers for local authorities to decide which activities they undertake and the manner in which they will undertake them; and
- (c) promotes the accountability of local authorities to their communities; and
- (d) provides for local authorities to play a broad role in promoting the social, economic, environmental, and cultural well-being of their communities, taking a sustainable development approach.”

Section 3(d): replaced, on 14 May 2019, by [section 4](#) of the Local Government (Community Well-being) Amendment Act 2019 (2019 No 17).

This purpose statement replaced an amendment made less than a decade earlier by the former National Party coalition Government led by the Rt. Hon. John Key, which had provided the following

S3 Purpose – “The purpose of this Act is to provide for democratic and effective local government that recognises the diversity of New Zealand communities; and, to that end, this Act—

- (a) states the purpose of local government; and
- (b) provides a framework and powers for local authorities to decide which activities they undertake and the manner in which they will undertake them; and
- (c) promotes the accountability of local authorities to their communities; and
- (d) provides for local authorities to play a broad role in meeting the current and future needs of their communities for good-quality local infrastructure, local public services, and performance of regulatory functions.” (Emphasis added)

Section 3(d): replaced, on 5 December 2012, by [section 4](#) of the Local Government Act 2002 Amendment Act 2012 (2012 No 93).

#### **5. THE OMBUDSMAN’S OFFICE**

The Ombudsman's primary role is to investigate complaints against government agencies, including local authorities. FoRA NZ wishes to highlight a significant underfunding (lack of

resources) and limited powers available to this office when it comes to investigating and responding to complaints against government agencies vis a vie their management and provision of essential infrastructure.

FORA NZ suggests this Office needs to be adequately resourced to provide for more timely investigation of complaints. We also request a review of the functions and powers of this Office, to provide it with an ability to make adequate redress in the event a complaint is upheld.

## **6. THE OFFICE OF THE AUDITOR GENERAL**

The Controller and Auditor-General is an Officer of Parliament. This means he is independent of the Government and can't be directed by whichever political party is holding power. The Auditor-General has two business units – the Office of the Auditor-General and Audit New Zealand.

Together, these offices work to give Parliament and the public an independent view of how public organisations are operating. That independence, along with watching the spending, is why the Auditor-General is sometimes called the public's watchdog.

There are about 3400 public organisations, including, for example, government departments, State-Owned Enterprises (SoEs), Crown research institutes, the defence forces, district health boards, city and district councils and the subsidiary companies they own, ports, schools, universities, polytechnics, and wānanga. Collectively, those organisations are managing about \$150 billion of public money (money that comes from the taxes and rates that New Zealanders pay), according to the Office of the Auditor General's website.

FORA NZ suggests that the role of the Office of the Auditor General needs to be reviewed, with an aim of expanding its mandate to provide for an ability to evaluate the efficacy (or productivity) of Government agencies and councils, and to evaluate the efficacy and quality of operational decision-making (as distinct to Governance), of both central and local government agencies and entities.

## **7. THE DEPARTMENT OF PRIME MINISTER AND CABINET**

The Department of Prime Minister and Cabinet (DPMC) occupies a unique position at the centre of New Zealand's system of democratic government. Its purpose, according to its current website is to advance an ambitious, resilient and well-governed New Zealand. DPMC's overall area of responsibility is in helping to provide, at an administrative level, the 'constitutional and institutional glue' that underlies our system of parliamentary democracy.

Ensuring that executive government functions well requires the DPMC to maintain close relationships of trust and confidence with the Governor-General, the Prime Minister and Cabinet. As DPMC's role and functions have grown, so have the number of Ministerial portfolios DPMC has



responsibilities within. DPMC now serves Ministers with responsibilities relating to national security, risk and resilience, the regeneration of greater Christchurch, as well as for “infrastructure”.

It is not apparent to FoRA NZ, just how the Infrastructure Commission’s Infrastructure Strategy’s proposed “Vision”, “Outcomes and Principles”, “Action Areas [vis a vie ‘building a better future’, ‘enabling competitive cities and regions’ and ‘creating a better system’], and “Proposed Priorities [for physical infrastructure]” might be reconciled against the elected Members of Parliament party manifestos. It appears to us that the Commission is competing with national political parties, in proposing an alternative ideology and manifesto, but without any pesky party members and general or local body elections.

## 8. THE NZ INFRASTRUCTURE COMMISSION

The “*NZ Infrastructure Commission/Te Waihangā Act 2019*” provides in S9 that “The main function of the Commission is to co-ordinate, develop, and promote **an approach** to infrastructure **that encourages infrastructure**, and services that result from the infrastructure, **that improve the well-being of New Zealanders.**” (Emphasis added)

Further to that, S10 provides for additional functions of the Commission as follows:

*“Strategy and planning functions*

- (a) to develop broad public agreement on the approach under section 9 and the strategy reports provided under subpart 3;
- (b) to provide advice in relation to infrastructure, including (without limitation) advice in relation to—
  - (i) the ability of existing infrastructure to meet community expectations; and
  - (ii) current and future infrastructure needs; and
  - (iii) the priorities for infrastructure; and
  - (iv) matters that prevent, limit, or promote the efficient and effective delivery of infrastructure, and services that result from the infrastructure;
- (c) to provide reports in accordance with subparts 3 and 4;

*Support functions*

- (d) to promote a strategic and coordinated approach to the delivery of current and proposed infrastructure projects;
- (e) to provide and co-ordinate information about current and proposed infrastructure projects;
- (f) to provide support services to current and proposed infrastructure projects.” (emphasis added)

FoRA NZ suggests that the Commission has failed to deliver against its 'main function' under this Act, in having presented a discussion document on an Infrastructure Strategy for NZ in which it has failed to account for:-

1. the civic rights and duties or obligations of citizens within NZ, as consumers or clients of infrastructure and related infrastructure services both within NZ (as distinct to the preferences or choices of customers in foreign markets for NZ exports);
2. the rights and obligations of all who own property within NZ (Ratepayers) reliant on infrastructure services to property who are faced with compulsory payments (as Rate "Demands");
3. the rights and responsibilities of the Crown and its agencies of Government (which also makes use of infrastructure services);
4. the array of regulatory frameworks associated with existing infrastructure assets both public and private.

This Infrastructure Strategy has failed to provide an outline of the array of tools currently utilized by local authorities and Government agencies to manage infrastructure. We observe that such tools range from the use of NZ Standards, to National Policy Statements and National Environmental Standards (under the RMA 1991), Engineering Standards, and local Bylaws (formulated under the Local Government Act, 2002).

Indeed this Infrastructure Strategy has not provided a cursory account of the existing approach to managing and provisioning NZ with (physical) infrastructure, nor any accounting for the various changes made (i.e. various approaches) over the previous 3 decades of change.

There have been serious revisions of the approaches taken over the past 3 decades. New Zealand has seen a move away from public ownership to the establishment of State Owned Enterprises and eventual divestment (privatization rather than devolution to regional entities) of essential infrastructure. We have seen the establishment of Local Authority Trading Enterprises (LATEs), later revised to Council Controlled Organisations (CCOs). There has also been a shifting focus of the purpose of local government, and a move to encourage 'shared-services'. The later has seen the establishment of regional hubs, in which a number of neighboring territorial authorities, a regional council and in the case of the Northland Transport Hub, the NZTA have co-located within offices to enable closer collaboration and to achieve efficiencies.

There has also been only a recent requirement upon the local government sector, to formulate 30 year infrastructure strategies, for their jurisdiction. The first of these were being produced in 2014 and 2015, as part of Long-Term Planning (a 10 year outlook) 2015-2025. Councils have just completed their 3<sup>rd</sup> review of these 30 year infrastructure strategies (and LTPs). Yet the Infrastructure Commission's Strategy has not demonstrated any cognizance of the relevance of these regional, unitary, district and city council strategies.

FORA NZ suggests that the NZ Infrastructure Commission has over-reached its 'additional functions' as provided for in the Act that establishes this Crown Entity. And in doing so, the ratepayers of New Zealand have not been recognized as key stakeholders and partners with local authorities in the provision of infrastructure.

## **9. THE BOARD OF THE INFRASTRUCTURE COMMISSION**

FORA NZ is not convinced that the Board as currently constructed is competent to deliver the purpose of the Infrastructure Commission. It is concerning to us that the Board and whomever is advising it appears to be suffering from "group-think". It is apparent to us that the discussion document has glaring information gaps, is focused on a narrow array of purported issues as though they are the driving influences or determinants of what is and isn't provided for as 'infrastructure' in New Zealand. For example, there appears to be assumptions in play, that are contestable, and which ought to be the substantive matters for discussion on "an approach" to infrastructure.

The discussion document appears to assume 'more of the same' when considering future rates of population growth, future infrastructure cost pressures, future modes of delivery – other than apparently already accepting significant changes to the mode of deliver for so-called "3 Waters" Infrastructure. The approach to managing and delivering infrastructure needs to be 'decoupled' from assumptions (which must change over time) about 'population growth', population structure, future technologies, and various other objectives of Government (e.g. to do with climate change adaptation and mitigation, and resilience or otherwise). The approach should be robust enough to accommodate whatever situational contexts arise, otherwise it risks putting the cart before the horse. Infrastructure is not THE foundation, it is one aspect of a society meeting its collective needs or enabling for desired outcomes.

## **10. CONCLUSION**

FORA NZ has not responded to the 36 specific questions outlined in the Discussion Document.

We chose not to because we don't think it appropriate that the Infrastructure Commission lead such a scatter-gun consultation exercise, on an array of very important (yet almost random) questions needing to be considered by citizens and ratepayers of New Zealand. Many of the questions asked are on topics which are the specific domain of other agencies with delegated functions, powers and responsibilities or which are matters for political debate. Many of these questions ought not be answered 'off the cuff', in an absence of relevant information to inform those being asked to respond. The discussion document does not provide sufficient information and evaluation of the merits (or otherwise) of different options as choices as to 'approaches' to providing infrastructure.