

Submission

On

Consultation on a rates target model for New Zealand

Submission to:
Department of Internal Affairs

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New Zealand Forest Owners Association

The New Zealand Forest Owners Association Incorporated (FOA) is the representative membership body for the commercial plantation forest growing industry. FOA members are responsible for the management of approximately 1.2 million hectares of Aotearoa New Zealand's plantation forests and over 70% of the annual harvest.

In 2024, the forest growing sector was worth \$5.75 billion in export value and it is anticipated that total export returns for forest products will reach \$7.33 billion by 2027¹. The sector has a 12% share of rural land use and a high proportion of Māori landowners (48%). The sector contributes 1.6% of New Zealand's GDP and employs approximately 42,000 people in wood production, processing, and the wider commercial sector. Commercial forests sequester approximately half of New Zealand's carbon dioxide emissions.

General comments

We welcome the opportunity to provide feedback to the Department of Internal Affairs on the consultation on a rates target model for New Zealand. Well-functioning local government is critical to a functioning plantation forestry sector, as we previously laid out in our submission on the Local Government (Systems Improvements) Amendment Bill (August 2025)².

We share the Government's concerns about rates affordability. Not only are households struggling with cost-of-living pressures, but our forestry businesses are seeing rates increases in some districts as high as 563%³. There is no evidence that the additional revenue collected through these rates rises is being put toward infrastructure needs to support our businesses, or to address the impact of forestry on roads come harvest time. In fact, our businesses are often having to pay additional rates and fix roads and infrastructure themselves in order to keep operations going, essentially paying more than double to keep the same operations viable.

These increased costs are making forestry uneconomic at a time when the Government is encouraging us to double exports, and at a time when wood processing investment is under pressure and facing high energy costs. The forestry supply chain cannot cope long term with these financial pressures, and it is impacting on regional employment and economic growth.

Forestry is committed to paying for our impacts and contributing to a functional local community, but rates rises of over 500% go far beyond that.

We believe that the proposed rates target model does not address the systematic issues with local government rating. Primary sector businesses also need council to be able to spend on infrastructure for us to continue to operate – overseas investors and farm foresters alike frequently

¹ https://www.nzfoa.org.nz/images/FOA_Facts_and_Figures_2023-2024_-_Web_file.pdf

² <https://www.nzfoa.org.nz/resources/file-libraries-resources/submissions/2025/934-local-government-system-improvements-amendment-bill/file>

³ <https://www.farmersweekly.co.nz/opinion/forestry-is-not-the-enemy-of-agriculture/>

cite issues with infrastructure as impacting on their ability to invest in rural New Zealand operations, and constraining profitability to tighter margins around ports.

Forest Owners Association conversely proposes that we need measures that strengthen a principled approach to rating by local authorities, including a rating differential cap and good taxation principles. Regardless of whether a rating cap proceeds, we encourage the government to include these principles as part of their reforms programme.

Our key recommendations are:

- 1) Do not proceed with a binding national rates target due to the potential for perverse consequences for much needed infrastructure investment.
- 2) Focus on ensuring responsible rating through a differential rating cap and good taxation principles, as well as through the Local Government (System Improvements) Amendment Bill's transparency and reporting requirements.
- 3) Introduce a mechanism for spending referendums for major capital projects that exceed defined thresholds. In these circumstances a differential rate that exceeds the soft limit we are proposing could also be approved by a special vote of rate payers.
- 4) Ensure that the local government rating is complemented by national level measures and controls so that increased costs are not introduced to councils through central government initiatives or rating issues but conversely allow for central government to intervene against exploitative local rating decisions.

Background

Local government rating has largely historically been governed by the common assumption that if rates were disciplined by checks and balances in judicial challenge and political pressure from the electorate. In the case of differential rating, this was upheld by *Mackenzie District Council v Electricorp*, which held that Electricorp could not be made to pay for most of the local authority's total spend from rates on the hydropower assets.

However, two recent court cases have made it clear that legislation does not impose a requirement for a connect between services used or required and the setting of rates. The Court of Appeal in *New Zealand Forest Owners Association v Wairoa District Council* held that local authorities have unfettered ability to make discriminatory rating decisions unconnected to the benefit or burden the ratepayer(s) may carry or impose. That followed and reinforced an earlier decision invalidating a targeted Auckland council rate on accommodation providers (*CP Group Ltd v Millennium*).

The Local Government (Rating) Act 2001 ("Rating Act") provides lists of criteria that councils may apply, but effectively the only material constraints on council powers are procedural. The requirements to make decisions in a transparent and consultative manner and to provide information to enable ratepayers to identify and understand their liability for rates, do not protect against parochial or majority exploitation of the rating powers.

Total local authority income in 2023 was \$15.1bn⁴. Approximately 60 percent of income is funded through rates. In 2019, General rates accounted for 50 percent of total rates, targeted rates 39% and uniform annual charges 11%. Approximately 70 percent of local authorities apply differentials of which 44 percent are for business differentials. In 2019, the median value of these business differentials was 2.5 – which means businesses pay 150 percent more per dollar of rateable value than residences.

An example of rating differentials in 2024/25 is outlined here:

Council	Residential	Commercial	Rural	Other
Auckland Council	1 or 0.9	2.7081 or 2.4373	0.8	1.2843 – 1.8540
Christchurch City Council	1	1.697	0.75	N/A
Hamilton City Council	1	2.6473/2.5149	N/A	0.74
Invercargill City Council	1	1	0.54	0.97 and 0.20
Manawatu District Council	1	1.6	0.5	2.25, 0.4
New Plymouth District Council	1	4.14	0.80	0.81
Rotorua Lakes Council	1	1.72	N/A	N/A
Tararua District Council	No differential on the general rate			
Waimakariri District Council	No differential on the general rate			

⁴ Statistics NZ “Local Authority Statistics – December 2023 quarter” (14 March 2024) at Table 1.

Wairoa District Council	Staggered by capital value	1.6	0.7	4
Wellington City Council	1	3.7	1	N/A

New Zealand’s permissive ratings regime, and the Courts’ recently reasserted restraint on intervention, leave the owners of land in politically unpopular land uses without effective ways to limit or to challenge the merits of Council decisions on rates. Principled legislative intervention can limit exploitative rating decisions. Without it, many industries or activities are at risk of unforeseen and unsustainable costs:

- They may foster inefficient uses of land – by diminishing or ending some activities and businesses, or obliging them to move to less suitable locations;
- They may force similar foreseen or unforeseen consequences on downstream and upstream businesses that are outside the differentiated categories;
- Changes in land use may be deliberately induced as NIMBY driven political strategies, either to send unpopular activity elsewhere, or to end it. That may take no account of regional or national needs;
- They may be politically attractive for reasons that have little connection with raising funds for historical local government purposes.
- The additional costs imposed as rates on some activities will be justified by reference to their externalities when they are not mainly local. The compensation for such externalities should be captured and distributed by central government. For example, a manufacturing plant’s emissions are best managed through the emissions trading system, not through punitive local authority rate decisions.

The risk of perverse rating decisions could be both exacerbated, and mitigated, by rates ‘shopping’. Industry location decisions could be influenced by threats and inducements depending on a prevailing local authority political current. However, many industries are not mobile, so they can be exploited over extended periods. Even the deterrent or attraction effects of rates competition will be muted because a current council cannot bind a future council on its rates policy. It is likely that rates competition will be inefficient form of regulatory competition.

The Victoria University Tax Working Group produced ‘Principles of a Good Taxation System’ as an assessment framework to assist the Government’s 2021 Tax Working Group. The principles are: Efficiency and growth; Equity and fairness; Revenue integrity; Fiscal cost; Compliance and administration cost; and Coherence.

Exploitative ratings decisions:

- Impede economic growth by disincentivising otherwise efficiently located industry in a district. Local authority decisions driven by the weight of preference from voters insulated from the effects on particular areas or industries could discourage employment generating

activities. They could leave the impact of business loss, unemployment and under-employment with the targeted businesses and occupations, and with central government;

- Unfairly increase and decrease the tax burden as between industries without regard to equivalence in local authority benefits and burdens. They offend against horizontal equity and vertical equity;
- Undermine revenue integrity as industries over time will migrate over district borders to avoid exploitative tax systems, making this form of revenue collection unsustainable; and
- May compound or interact with central government measures such as the emissions trading scheme to increase volatility or the pace of changes in land use unpredictably. As local government politics tend to favour the status quo, differentials intended to encourage or discourage activity may run counter to central government measures to promote flexibility in land use.
- Councils under fiscal pressure may adopt targeted rates based on incomplete modelling rather than transparent taxation principles, creating local instability and undermining investor confidence.

Unfettered power may allow local authorities to use differential rating to defeat some central government policy objectives. For example, the Coalition Government resource management reform aims to facilitate more housing and greater density despite the views of some local authority elected representatives. Hostile local authorities could find an effective weapon in their wide discretions with rating powers.

Recent examples of local authorities signalling or proposing higher differential rates include: A councillor noting that land used for solar energy farms should have a higher rate to reflect that the farms 'make money from the land'; Additional councils seeking to impose commercial forestry differentials; and Renewed discussion of the Auckland 'bed tax'.

A discipline or constraint on the rating discretion may not be unwelcome to many councillors. This should be tested in consultation. It is possible that they may be relieved to have a legal 'defence' against constituent pressure to discriminate against particular activities. This may parallel the dilemma elected representatives find themselves in, when faced with hyper-local opposition to developments such as retirement villages, even when their districts overall may welcome them. Having less power to discriminate may be preferred over having more power.

Proposed Solution

We propose that in lieu of an overall rates cap, a soft differential cap be imposed alongside a purpose for rating and statement of sound taxation principals.

We ask the Government to provide for a soft cap on the differential, as outlined further below (subject to Ministerial discretion to lift it, and excluding excess differentials approved by a special vote of ratepayers subject to it) which will include:

1. the permitted multiple [working assumption 2.5 times];
2. provision to define the comparators for the multiple;
3. provisions for specific constraints on category classifications that are unfairly targeted;

4. provision for individual ratepayers to apply for exemptions where they are subject to differentials above the cap due to being included in multiple otherwise overlapping land use categories.

As a complimentary measure, we recommend providing for councils to seek an opinion on compliance with the tax principles from the Auditor-General. A favourable opinion: a) is intended to deter court challenges to the rate; b) may be accepted by a court as proof of the matters stated in it, absent compelling evidence to the contrary; c) may raise a procedural hurdle to proceeding with a judicial review or declaratory judgment application, in that non-compliance may be alleged only after consultation with the Attorney General (who would presumably counsel the applicants on their prospects).

We also recommend that Government require that councils which set a rate exceeding the soft cap obtain such an opinion on adherence to the tax principles, and make the opinion available to any ratepayer on request. A control measure would be that the Minister could disallow a differential rate set above the soft cap if it is not supported by a favourable Auditor General opinion on adherence to the tax principles.

We also recommend a prohibition by regulation of setting differential rates for certain prohibited purposes, against rates being set to achieve objectives that do not relate to legitimate funding needs, and to require that the explanations which must be provided for community consultation include (expert) estimates of the differences between amounts expected to be paid in rates by differentiated categories, and the benefit to them of council services they consume and the cost of such services to the council.

In order to provide for projects where a group of rate payers may wish to exceed the differential for a particular project, we recommend allowing a differential rate to exceed limits created by legislative disciplines where it has been approved by a special vote of ratepayers to be subject to it. For this purpose a special vote will require a 66% majority of ratepayers who vote, and those voting in favour must represent more than half of the aggregate rating valuations of the properties of those who vote. This provision enables affected landowners to approve high differential rates for purposes such as urgent flood protection work, or collective investment in business development facilities. Councils would specify the voting procedure, and supervise and facilitate the polling. It should, for example, preserve the operation of schemes such as those supervised by Business Improvement District Associations but improve on the accountability back to ratepayers. These Associations can organise to administer funds raised by targeted rates for which they have engendered majority support from those who will pay the rates.

This proposal will allow the operation of current law on judicial review if rates are set that are inconsistent with the taxation principles, or if they have been made for a purpose prohibited by secondary legislation. The proposal relies on that possibility as the sanction to elicit local authority compliance with the law. The proposal nevertheless recognises that local authorities should not be exposed to that kind of litigation risk and cost, without balancing protection from the risks and costs that discourage parties from pursuing meritless litigation.

As described in the preceding section, a limited safe harbour will be available for councils in respect of the tax principles - if the Auditor-General has provided an opinion that rates do comply with the

taxation principles, this will be compelling (but not conclusive) evidence of compliance in any court proceeding.

A risk was perceived that the soft cap rate would be seen on its own as a de facto 'safe harbour' or approved differential. To reduce that risk the proposed amendments: emphasize the taxation principles and preserve the susceptibility of differential rates setting to judicial review; make it plain that the Auditor General review role may apply whether or not a differential is at or near the cap.

Ministerial intervention could be confined to the circumstance that a rate has been set at a differential more than 2.5 above the base, without a favourable opinion from the Auditor-General (that the rate complies with the taxation principles). The Minister could also be given a power to set rates in substitution for council decisions where the Minister believes that the council has failed to comply with the purposes and requirements.

The Ministerial intervention powers are not constrained by purpose criteria for intervention, but it is expected that strong political disincentives will operate to discourage Government intervention in this area. Exercise could result in more pressure on central government for financial support if the Government intervention has adversely affected the local authority's ability to fund itself. These disincentives are likely to act as a sufficient check on Ministerial powers.

In one example of a proposed local government rates rise that would include a high forestry differential, it became apparent that council is using a local rating differential for roading because they are not receiving a sufficient proportion of road user charges. The collection of Road User Charges (RUCs) from harvesting traffic (including aggregate cartage) using local roads only was in the vicinity of \$2M per year, despite a proposed rating increase collecting proportionately more from local industry. However, the contribution from RUC's into the local road maintenance budget was \$100k so a significant variance from what is collected and needed for roading maintenance. A possible solution in this case is a more representative allocation from RUC's be distributed, as road users are already paying for maintenance services they are not receiving - effectively a targeted rate could be viewed as double dipping. These sort of interactions at the national levy need further review and scrutiny, and serve as a reminder that any changes to local rating need to be considered in the context of both the other rates that businesses and residents pay, and the tools and funding mechanisms that councils have at their disposal.

Closure

While we respect the intention of a ratings cap, we believe we have a compelling case that a differential cap would help the government achieve its goals without the potential for perverse outcomes that an overall cap has been proven to have in other jurisdictions.

We do not object to our submission being made public.

We welcome the opportunity for further discussion and engagement.



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