

Inquiry into climate adaptation
Environment Select Committee
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**Western Bay of Plenty District Council submission on Inquiry into climate adaptation
(Community-led retreat and adaptation funding: Issues and options)**

General comments

Western Bay of Plenty District Council (WBOPDC) welcomes the opportunity to provide feedback on the Inquiry into community-led retreat and adaptation funding.

WBOPDC supports the shift to proactive adaptation through the first national adaptation plan and resource management reforms. We agree that there are gaps relating to community-led retreat and adaptation funding. There is a need to develop a nationally consistent framework and legislation to enable it, including enabling proactive (managed) retreat and relocation where necessary.

WBOPDC would like to acknowledge that while we have provided some commentary in response to the tangata whenua questions raised it is critical that the Ministry for the Environment directly engage with tangata whenua in the development of responses to the significant issues of community-led retreat and adaptation funding. Iwi, hapū and Māori are already undertaking adaptation planning. There is a need to work alongside iwi, hapū and Māori on how to uphold rights and interests to provide for tino rangatiratanga.

The proposed national direction under the Resource Management Act 1991 for a Natural Hazards Planning Framework sets out an approach to risk assessments and risk management for the purpose of land-use planning. It appears there is some duplication between the two pieces of work. It would be good to clarify how the work and any outcomes are being considered in parallel.

Council supports the need for clearer guidance and direction on undertaking risk assessments. It is understood that the findings from the Inquiry into community-led retreat and adaptation funding may be used to inform the proposed Natural Hazards Planning Framework. Council agrees there is a need for national direction on risk assessment to ensure quality and consistency. The requirement to undertake risk assessments needs to be mandated so that the work is prioritised and undertaken.

Regarding funding and financing we agree with the commentary in the Issues and Options paper which identifies that in order to lower costs for some, we will potentially increase costs for others and that costs met by central government and councils are essentially costs paid by tax and ratepayers. Whenever central government and councils help to fund adaptation, we need to make sure we are making good adaptation decisions that address risks and minimise impacts and costs. It is critical that we do not inadvertently increase incentives for people and organisations to fail to adapt now.

Council proposes a novel approach outlined in our answer to question 5 below that requires little or no compensatory payments from taxpayers and ratepayers, spreads the financial cost to property owners over a long period and provides a well-signalled, predictable, and equitable pathway to retreat.

The remainder of this submission provides a response to the questions in the Issues and Options paper.

We welcome the opportunity to discuss or clarify any matters in this submission in further detail if required. We do not wish to make an oral submission to the committee.

Yours sincerely,



James Denyer

Mayor

Western Bay of Plenty District Council

Submission questions

1. Do you think we should use the term community led retreat? If not, what do you think we should use and why?

'Community-led retreat' is not considered an accurate term for what will inevitably be required. It would therefore be preferable to retain the term 'managed retreat' or consider other options such as 'planned relocation'. We agree that communities and Tangata Whenua need to be fully involved in decisions about their future and that it's important to seek out different views from across the community on the risks they face. Council agrees with the meaning of community-led retreat, which is identified as "moving homes, businesses, sites of cultural significance and taonga out of harm's way through a carefully planned process that involves the community at every step". However, Council believes that in order for retreat to be successful, it will more than likely require difficult decisions around retreat which will need to be made by central / local government alongside communities.

2. Are there other barriers to Māori participation in adaptation and upholding Māori rights and interests? How can we better support Māori?

- For capacity and resourcing ability generally, Māori aren't adequately resourced to be able to fully engage and participate in existing resource management focused policy and reform. There needs to be up front recognition of time and expertise.
- Roles and responsibilities in the process need to be worked on upfront together.
- Organisations or agencies that lead the process need to have organisational capability to uphold Māori rights and interests.
- The way we communicate risk could be considered a barrier, and the focus on loss of value, inherently doesn't align with Māori values.
- There is additional complexity around acquisition of Māori land due to Treaty obligations.

3. Are there other issues that affect the quality of risk assessments and local adaptation planning? How can we strengthen our approach?

The scale of assessment is a critical factor in some aspects of local adaptation planning and will only be meaningful for many communities once it reaches the very detailed and granular stages specific to a project or area. For example, there is a need to include vulnerability criteria within risk assessments, particularly with respect to social and cultural risks, which is currently very one-size-fits-all under national or regional frameworks. The degree of sensitivity and adaptive capacity of

a community to certain hazards should be assessed at the most local level possible in order to capture the specific non-quantitative strengths, weaknesses, and mitigating factors present within a community.

There is also no way of quantitatively capturing measures of cascading or compounding risks through technical risk assessments. These should also be assessed at the most local level possible using local knowledge systems and mātauranga Māori.

The adaptation process and decision-making horizons (i.e., DAPP, uncertain, agile) do not align to local government organisational planning and funding processes (i.e., tri-annual, inflexible). Local government will struggle to provide the required level of responsiveness should conditions start to change rapidly as there is not adequate time to consult with ratepayers on the changes this could incur on Council's spending should local government be required to buy-out affected properties.

Finally, risk assessment and local adaptation processes are currently occurring in an environment of uncertainty regarding who has the decision-making authority to determine which overall level of risk is acceptable. This leaves the final outputs open to poor buy-in and ongoing challenge, both legal and non-legal in nature, from affected stakeholders. Elected members are also uniquely exposed to negative community sentiment towards decisions made at a local government level in the absence of a clear mandate to do so, despite the imminent need to plan to reduce the risk communities are facing.

4. Are there other issues that limit our ability to retreat in advance of a disaster? How can we improve our approach?

Issues that limit ability to retreat in advance of a disaster:

- Lack of preparedness and planning due to lack of incentive.
- Generally, a financial disadvantage to retreat in advance under current legislative settings.
- Understanding where to retreat to, with developable land and housing already in short supply in high growth regions such as the Western Bay of Plenty.
- Poor community awareness of risk (and imminent risk in particular). More needs to be done on how we communicate risks and work to educate the public on different levels of risks. Risk assessments don't provide enough certainty on imminent risk versus forecasted risk.

- Enabling retreat through land-use planning changes is extremely time consuming and costly for local government under current legislative settings.

How we can improve our approach:

- Incentivise preparedness and planning in advance of retreat.
- Be able to explain the differences in risk in terms of scale and different types of risk for different hazard events in a way that the public can understand, ensuring it is meaningful and memorable.
- Need to ensure we are considering different types of risks and the different scales of time, e.g., river flooding versus long term coastal erosion. The managed retreat system needs to be able to plan for short term and long-term events.
- Unlock funding and financing pathways and clarify the roles and responsibilities of banks and insurance providers in enabling proactive retreat.

5. Are there other issues with the way we fund adaptation? How can we improve our approach?

Adaptation is not currently funded. There is a conflict of interest with the current adaptation process as councils are footing the bill, at least in part, for planning as well as any actions taken at a local level. If things are left to progress until the point that a natural hazard event does occur, on the other hand, then recovery response funding streams become available.

It is difficult to justify spending ratepayers' money on land that doesn't benefit the wider community. Example: the land purchased by Auckland Council has value as a resource/asset as it can be absorbed into the stormwater system and redeveloped as blue-green infrastructure. Conversely land exposed to coastal erosion does not represent any benefit to the wider community if purchased by a territorial authority. It is inappropriate for territorial authorities to be involved in compensation for these kinds of properties.

A novel funding and financing solution for managed retreat:

A proposed solution may be to legislate to convert freehold properties in areas designated to become unlivable in the future, into long leasehold properties (e.g., a 99-year lease). The Crown would become the owner of the freehold land for a peppercorn rent (This model of ownership is common in other places such as London).

Owners would own the leasehold and continue to occupy the property. People would be able to buy, sell and inherit such properties in the usual way. The value would at first remain close to what it was prior to the change. Mortgages would be largely unaffected initially since lenders are typically comfortable to lend on leasehold properties, as long as 50 years of the lease remains at the end of the mortgage term.

However, over time, the value will slowly decline in a steady and predictable way until it reaches zero at the end of the lease many decades later. This means that the pain is spread out over several generations with little or no immediate effect. The eventual retreat from the property is well-signalled with plenty of time for owners to plan for change. No owner living now would be made homeless, and subsequent owners would be going in with their eyes open.

Flexibility for uncertainty in climate change can be built-in by either extension (or possibly reductions) to the term of the lease.

There is no direct cost to the wider community as there are no compensatory payments for retreat. There is also equity in that particular groups are not favoured over others. (e.g., permanent residents vs bach owners vs commercial properties).

It is acknowledged that further consideration would be needed regarding the treatment of Māori land with its Treaty implications. The approach to adaptation for Māori land should be developed by Māori, for Māori at a local level with commensurate Central Government funding to support the process.

6. What do you think the costs are of a failure to adapt or failure to adapt well?

- Loss of life and damage to property
- Higher cost in the long run if we fail to adapt, more individual hardship
- Likely more litigation against local government and central government.
- There will be instances where we fail to adapt well – we are currently still building in exposed locations for instance – and the costs of that will be felt by future generations. Establishment of a “maladaptation fund” could assist with easing intergenerational inequity that will occur over the coming decades. This fund would need to be independently coordinated with clear frameworks and criteria to provide assistance to areas where decisions (made in good faith at the time) have led to objectively poorer outcomes than other areas in a comparable situation or district.

7. What does a Te Tiriti-based approach to adaptation mean to you?

It is not considered appropriate that Western Bay of Plenty District Council answer questions within Chapter 3. The responses to these questions should be guided by specific Tangata Whenua input led by Ministry for the Environment. At a high level our Council believes that a system must be designed and developed with a high level of Mana Whenua input to reflect Tino Rangatiratanga. This approach recognises that what works for some iwi/hapū may not work for all. The adaptation approach must allow for flexibility to achieve suitable outcomes for Tangata Whenua.

It is important to note that this Inquiry is a significant piece of work, and to facilitate or be part of conversations with all of the iwi/hapū across our District is a substantial undertaking, and certainly not possible within the prescribed consultation period for this work, not only for Council but also mana whenua due to aforementioned capacity and capability issues.

It must be acknowledged that Māori are intrinsically connected to their land and so the impact of managed retreat on Māori is more significant than most. The intrinsic connection between Tangata Whenua and their land will also mean that the question of where to retreat to becomes even more important. Historic land confiscation and alienation may leave many iwi, hapū and whānau with limited options.

A recent example of a climate change adaptation plan that has been undertaken in the Bay of Plenty is the [He Toka Tū Moana Mō Maketu – Maketu Climate Change Adaptation Plan](#) which was led by the Maketu Iwi Collective with support from the Bay of Plenty Regional Council. The Plan identifies that there is a need to consider an approach to managed retreat for home, marae and other village infrastructure that may be at risk that comes from a tikanga Māori process.

8. What does a local mātauranga-based framework for risk assessment look like to you?

Refer to above comments in Question 7.

9. What innovative approaches to adaptation planning do you have with your own hapu?

Refer to above comments in Question 7.

10. How can we manage overlapping interests during adaptation planning, including where there is a conflict?

- It can't be voluntary, a mandatory element needed.
- Appropriate governance consideration for decision making is needed. Local government or an independent person / agency?

11. What is your perspective on the Crown's Te Tiriti obligations to support community-led retreat? Are there existing examples of what that should or should not look like?

Refer to above comments in Question 7.

12. What funding approaches have worked for your own iwi, hapū and hāpori?

Refer to response in Question 7.

13. How many stages do you think are needed for risk assessment and what scale is appropriate for each of those stages?

- The first National Climate Change Risk Assessment for New Zealand uses a three-stage process. Are there other international best practice examples that should also be referred to?
- National and regional risk assessments are appropriate for physical risk assessments only. National level identifies the risks that exist generally. Regional level can focus on regionally significant risks.
- Anything social or cultural needs to be as local as possible, needs to have flexibility to include mātauranga Māori even when the assessment might not be on Māori owned land.

14. How frequently should a risk assessment be reviewed?

- In line with how often hazard data is reviewed (for physical risks at least). Also, whenever the scaled down versions of IPCC scenario models are made available nationally.
- There is a need to take into consideration that climate change will impact how frequently data needs to be reviewed and the level of risk updated.
- Social and cultural risks would need to be determined by the community. For example, checking in with the community on whether the information had changed materially in the last decade.

15. What do you think makes a risk tolerable or intolerable (i.e., acceptable, or unacceptable)?

- Understanding tolerance levels for risk is extremely difficult. What is acceptable risk to one person, or one community will not be the same to others.
- It is important to consider that people's perception of risks and their tolerance of risk changes over time. For people who have lived through a hazard event, their risk tolerance is likely to be much lower compared to people who have not.
- Risk tolerance needs to be able to be measured and acceptable levels need to be set.
- We need to recognise that individual landowners may be more willing to tolerate unnecessary risk due to their own short-term interest in a property. Some people do not accept scientific analysis and therefore don't properly acknowledge risk.

16. Do you think local risk assessments should be carried out or reviewed by a centralised agency or a local organisation? Why?

- We agree that there is a need for a standardised approach to risk assessments.
- National direction should ensure a high level of consistency in the way risk assessments are carried out. To ensure this happens, a centralised agency would make sense.
- The risk assessments need to be carried out in accordance with the same methodology. At a regional / district / city level there needs to be some flexibility to set the criteria on whether a risk is medium or high. The vulnerability component of a risk assessment depends on the locality.
- Physical risks could be assessed and reviewed at a national or regional level as they are primarily quantitative and can be standardised. Social and cultural risks assessments should be completed at as local a level as possible.

17. Should risk assessments be carried out only by technical experts or should other people also have a role? What role should other people and organisations have?

- Technical experts in terms of scientific analysis i.e., physical risks. People with no conflicts of interests. Must be robust and transparent. Physical science-based components (e.g., climate change scenario modelling of

flooding) must not be open to legal challenge if undertaken in accordance with prescribed methodology.

- It makes sense for local government to have responsibility for risk assessments, given it is close contact with its communities.
- Technical experts need to develop the inputs into the risk assessment, the exposure information needs to be compared against your vulnerability and capacity data, this relies on talking to the people that are exposed to understand that.
- It is harder to define the scope for social and cultural parts of a risk assessment. There is less recognition of qualification and expertise in these areas.
- Generally, there is a need for a clearer understanding of what is a good risk assessment and who is qualified to undertake them. It is our understanding that there are very few experts within the country on risk assessments.
- Central government could negotiate All-of-Government contracts with technical experts to make standardised information and services available and affordable to local government.

18. Do you think there should be a requirement to undertake local adaptation planning? If so, should the trigger be based on the level of risk or something else?

- We agree that adaptation planning is currently ad-hoc and 're-active'. The main type of planning we do is 'post event' and recovery based.
- The 'patchwork' of powers are not sufficient to enable effective adaptation planning.
- Yes, we agree that there should be a requirement to undertake local adaptation planning. The level of risk can act as a trigger or alternatively it could be community driven too.
- To unlock investment into adaptation it needs to be mandated. Adaptation plans also need to be strategic and aligned to central government expectations to ensure enduring multi-party support for whatever system is adopted. This will promote certainty, which will increase council and community confidence in and buy-in to the framework.

19. What direction should central government provide on the local adaptation planning process?

- We agree national direction and a framework is required to enable local adaptation planning. Alongside this there needs to be appropriate financing and legal powers (legislation limitation of liability).

- Future development of future leaders / experts in adaptation space. There is a need for investment in education in this area. A clear pathway to getting the right knowledge that is needed.
- Accessible system and processes (i.e., the minimum of complexity possible).
- Nationally prescribed valuation processes/formulae and acquisition framework.

20. Do you think there should be a requirement to plan for different scenarios, such as changes in the level of risk or what happens if there is a disaster? Why or why not?

- The DAPP (Dynamic Adaptive Policy Pathways) provides a process to identify capability to adapt to a disaster.
- Climate change will only make planning more uncertain. We need to be readily planning for different scenarios and understanding the different levels of risk.
- Post-disaster/recovery plans should be mandated scenarios in order to streamline the decision-making process immediately following an event and reduce overall costs to the affected community (i.e., prompt insurance payouts, ability to relocate businesses).
- We need to understand the interrelationship between the Civil Defence Emergency Management Act and those requirements in terms of a recovery plan (post disaster). There needs to be alignment between civil defence and pre-planned adaptation scenario that manages the after-event issue.

21. How can we make sure that local adaptation planning is inclusive and draws on community views?

- Undertaking thorough and robust best practice engagement with communities.
- Education, building capacity, enable people to be able to participate in discussions.
- Community engagement is not free. Example is at Clifton, where participants are paid to engage.
- Consider use of participatory democracy and how this could be funded. This would help community understanding and buy-in for controversial and

potentially unpopular decisions that are difficult for elected members to make.

22. Who do you think should make decisions about the adaptation pathway we choose and why? How should others be involved in the process?

- Local government with Tangata Whenua and community involvement.
- Backstop option at central government level/independent review to select a pathway if a decision is not reached. If consensus is not able to be reached, then a decision will be made by central government / minister.
- Whatever model is adopted, it must be very clear who has the decision-making responsibility under each scenario (e.g., voluntary, mandatory, protection vs retreat etc.).

23. What do you think are the most important outcomes and principles for community-led retreat?

- Community safety and retreat that avoids poor outcomes like financial hardship or homelessness.
- Iwi/hapū engagement and decision making – by Māori, for Māori.
- Best practice community engagement.
- Avoid transfer of wealth to the already wealthy, avoid diminishment of wealth of lower-income households. Equitable outcomes.
- Te Tiriti and mātauranga framework should feed down into how the outcomes and principles are prioritised.
- Reduction of existing risk
- Reduction of cost compared to emergency response scenario.

24. Do you prefer option 1 (voluntary) or option 2 (a mix of voluntary and mandatory parts)? Are there any other options?

- Voluntary won't create change.
- From an equity perspective, some people located in low lying coastal areas have no real choices, unless they are enabled to move elsewhere.
- Option 2 is preferred, a mix of voluntary and mandatory. There is a need for a mandatory element to trigger funding or other retreat pathway mechanisms.

25. Do you agree that affected land should no longer be used at the end of a retreat process (with limited exceptions for things like ceremonial events, recreation, some agricultural or horticultural uses and mahinga kai gathering)? Why or why not?

- Yes, we agree the land should not be used for housing / any buildings where people would be put at risk.
- Open space / recreation would be most suitable. Relying on the land for agriculture or horticulture uses may result in additional dependency on the land.
- Engaging with mana whenua would identify any cultural uses of affected land such as mahinga kai gathering, and provision should be made to enable this to continue where possible.
- Agricultural use may be more suitable than horticultural use. Must be an activity that lends itself to the timeline over which the identified adaptation trigger (not signals) can occur.
- Important to balance reduction of risk against negativity, community resentment about a non-mandatory retreat. "Optimising" the use of land that has been retreated from to add value for the local community may help with this.

26. Do you think there should be any other exceptions? If so, what, and why?

- There will always be exceptions that could be considered on a case-by-case basis.

27. Do you agree that these powers are needed to ensure land is no longer used once a decision has been made to retreat? What powers do you consider are needed?

- Fit for purpose legislation.
- It depends on who is paying for the retreat and who benefits from the buy out etc. You can't pay for retreat and then have someone continue to benefit materially from that land. Powers would be compulsory purchase, freehold to leasehold conversion, prohibition on future consents for development.

28. What do you think the threshold or trigger should be for withdrawing services once a decision has been made to retreat?

- An agreement from the community, Tangata Whenua, local government, and key stakeholders e.g., infrastructure providers.

- It is likely that infrastructure providers will determine whether or not it is appropriate to renew / upgrade infrastructure through a particular assets' renewal process.
- Inclusion of details on withdrawing services in a retreat plan may be needed and this should be identified in the adaptation plan with the appropriate decision-making process stepped through.

29. In what circumstances, if any, do you think decision-makers should be protected from liability? What are your views on option A, option B or any other possible option?

- Decision-makers should be indemnified from liability. There is too much uncertainty on climate change and random events. As long as decisions are made in good faith and according to evidence.

30. Which parts of the current system work well and which do not? Are there any other issues with our current approach to adaptation funding?

- There is not a fit for purpose system currently. There is a framework (DAPP) but not a standardised system with scope, roles, responsibilities etc. all laid out. The current approach is completely ad hoc and is generally unmanaged, post-event retreat (where it has occurred or is occurring).

31. What do you think are the most important outcomes and principles for funding adaptation?

- The ability for a slow loss of value rather than all at once as described in the response to question 5 above.
- Intergenerational equity.

32. In what circumstances (if any) do you think ratepayers and taxpayers should help people pay for the costs of adaptation?

- Ratepayers – where there is a demonstrable value add to the local community (amenity, resilience, enabling action to avoid risk to private assets/properties) and the costs can be equitably shared amongst the beneficiaries.
- Taxpayers – where means-testing shows that people would be placed in an untenable financial position and/or would result in poor environmental outcomes or increased risk to others i.e., abandoned assets.

- It is difficult to provide a framework that doesn't inadvertently reward those who have knowingly purchased property, perhaps as a short-term investment with an understanding of the risk and then being financially compensated versus those who have owned a property for a long time where there may not have been a risk e.g., long term coastal erosion.
- Another factor to consider is some properties may be rental properties and whilst the loss of the property is detrimental to the property owner, its effect may be significantly different to where you have an owner/occupier, and it is their single significant asset.

33. In what circumstances should central government help councils to meet adaptation costs?

- Retreat represents a significant transfer of wealth. It is inappropriate for ratepayers and the regressive rating system to pay compensation for this. Should be mostly central government/taxpayers. Councils do not have the ability to pay for retreat.
- There are some other circumstances where central government could help to reduce the costs on local government and some of the recommendations that are likely to come out of this Inquiry will assist in this. E.g., sharing of the centralisation of information that is relevant to all regions in the country, a consistent framework and national direction to be applied will greatly reduce the amount of duplication of efforts across the country.

34. What are the benefits and challenges of providing financial support to people needing to retreat?

- Financial support needs to be provided in a fair manner. Consider equal treatment vs equitable treatment. How do we avoid rewarding the reckless whilst punishing the prudent.
- Local government does not have sufficient income or range of funding tools enabled by legislation to provide meaningful support to people needing to retreat. While provision of suitable land to relocate at-risk communities could be feasible for some territorial authorities, the costs to establish services in these locations could be unaffordable though.

35. Are there any other approaches for providing support to people needing to retreat that we should consider?

- Relocation costs
- Support with financial modelling
- Support with negotiating insurance contributions for relocation of buildings (i.e., enabling legislation and process).

36. What are the benefits and challenges of providing financial support to businesses needing to retreat?

- The degree to which a business is merely a private enterprise whose risk is owned by the shareholders, or whether we view it as a core community service that affects the wellbeing of the community (food shop, dental practice, major employer etc.).

37. What should central government's initial funding priorities be and why? Which priorities are the most important and why?

- Those at most severe risk should be prioritised.

38. How could central government communicate its investment priorities? Please indicate which option you think would be most effective and explain why.

- No comments.

39. Should funding priorities cover councils as well as central government?

- There is a need for a consistent framework for all stakeholders.

40. How can the banking and insurance sectors help to drive good adaptation outcomes?

- They can't. It needs regulation or a framework that means that banks and insurance companies aren't the ones driving this.
- The banking and insurance sector can give effect to adaptation policy by being aligned to regional planning decisions. More transparency about how they calculate risk and may retreat in future could influence individuals' decision-making away from potentially maladaptive actions.

41. What solutions should be explored for funding and financing adaptation?

- Refer to our response to question 5 above.

42. Are there any other issues that make it difficult to adapt during a recovery?

- Adaptation during a recovery is potentially easier because you have ready-made public buy-in of the need to adapt from the immediate and tangible effects of a disaster.
- However, potential difficulties include that, currently, there are no simple processes for pulling together the various sources of funding at an individual level (i.e., central government support, insurance, bank lending); emotions are running high; and there might not be clarity on decision-making authority, roles, and responsibilities. There may also be issues with establishing legal ownership in event of a loss of life.

43. Do you think our approach to community-led retreat and adaptation funding should be the same before and after a disaster? Why or why not?

- Yes, but practically speaking it won't because emotion will play a big part after a disaster. Conversely, poor risk assessment may precede a disaster.
- Yes, especially with funding to remove the issue of conflict of interest. There may be some changes in a post-event situation e.g., roles appointed to make decisions in a timely/fast tracked manner (but always based on the pre-agreed adaptation plan for the scenario that is faced) and fast-tracked applications and/or funding support unlocked.