Tax Working Group Public Submissions Information Release

Release Document

February 2019

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Auckland Council
Te Kaunihera o Tāmaki Makaurau

1 November 2018

Hon Sir Michael Cullen
Chair
Tax Working Group
PO Box 3724
Wellington 6140

Dear Sir Michael

Re: Auckland Council's submission on the Tax Working Group's Interim Report

Please find attached Auckland Council's submission on the Tax Working Group's interim report.

The council recognises the importance of a well-functioning tax system and the role it can play in incentivising certain behaviours and disincentivising undesirable behaviours.

The council is committed to help tackle Auckland's key challenges of high population growth, shared prosperity, and environmental degradation. Our comments in this submission reflect that.

Given the submission deadline of 1 November 2018 and the broad spectrum of topics in the interim report, our submission focuses on the topics of most relevance to council, primarily environmental and ecological outcomes, and housing affordability.

A key message of this submission is that the Tax Working Group should satisfy itself that its recommendations are supported by robust evidence, drawing on lessons and experience from other jurisdictions – what has been effective, and what lessons have been learned – whilst being cognisant of any perverse impacts and/or costs.

The council would welcome the opportunity to discuss the matters raised in this submission.

Yours sincerely
[1]

Councillor Ross Clow
Chair
Auckland Council Finance and Performance Committee

Submission to the Tax Working Group on its Interim Report

1 November 2018

Auckland Council submission on the Tax Working Group's Interim Report

Introduction

1. This is Auckland Council's submission on the Tax Working Group's interim report (the interim report) that was released on 20 September 2018.

2. Auckland Council welcomes the opportunity to submit on the Tax Working Group's interim report.

3. Auckland Council makes this submission as the unitary authority for a region that is New Zealand's largest commercial centre, is home to around a third of the country's population and contributes almost 40 per cent to the nation's gross domestic product.

4. The council is committed to help tackle Auckland's key challenges of high population growth, shared prosperity, and environmental degradation. Our comments in this submission reflect that.

5. Auckland Council recognises the importance of a well-functioning tax system and the role it can play in incentivising certain behaviours and disincentivising undesirable behaviours.

6. Given the submission deadline of 1 November 2018 and the broad spectrum of topics in the interim report, this submission focuses on the topics of most relevance to Auckland Council, primarily:
   - environmental and ecological outcomes
   - housing affordability.

7. The council notes the interim report contains a mixture of recommendations and further proposals/commentary. This submission addresses both aspects where relevant. In some instances, the council did not consider there was sufficient information in the interim report to provide a definitive response.

8. A key message of this submission is that the Tax Working Group should satisfy itself that its recommendations are supported by robust evidence, drawing on lessons and experience from other jurisdictions – what has been effective, and what lessons have been learned – whilst being cognisant of any perverse impacts and/or costs.

9. The interim report indicates that the Tax Working Group is considering whether to recommend the introduction of new taxes. Auckland Council submits that where councils are required to help implement and/or administer these taxes, they should be adequately compensated.

10. This submission has been approved by a delegation of Auckland Council's Finance and Performance Committee and includes the views of the Auckland Independent Māori Statutory Board.

11. Given the broad nature of the interim report, the discussion/recommendations contained within it, and the wide cross-section of views that councillors represent from

across Auckland, not all points raised in this submission were unanimously supported by all councillors.

12. The address for service is Auckland Council, Private Bag 92300, Victoria Street West, Auckland 1142.

13. Please direct any enquiries to Matthew Walker, Chief Financial Officer, at [1]

Discussion

Environmental and ecological outcomes

Tax Working Group's statements/comments in its interim report
There is significant scope for the tax instruments to play a greater role in delivering positive environmental and ecological outcomes in New Zealand. Environmental tax instruments can be a powerful tool for ensuring people and companies better understand and account for the impact of their actions on the ecosystems on which they depend.

Taxes are not well suited to all environmental problems and regulation will still be a better approach for dealing with some issues. The Group has prepared a draft framework that identifies a range of criteria and design principles for environmental taxes to be effective.

Environmental taxation and regulation should be considered together for positive outcomes.

14. Auckland Council supports in-principle these conclusions, noting any environmental taxation tools would need to be part of a broader response which could include (but not limited to) regulations and non-regulatory incentives.

15. The council suggests that a success measure for environmental taxation tools could include the degree by which revenues from that tax reduce over the long-term, as behaviours change (as per the intent of any such tax) and environmental externalities decrease.

Tax Working Group's statements/comments in its interim report
In the short term, there may be benefits in expanding the coverage of the waste disposal levy, and for reassessing waste and landfill disposal externalities to see if higher rates are warranted. There could also be benefits from strengthening the Emissions Trading Scheme (ETS) and advancing congestion charging.

Tax Working Group's assessment in its interim report
A reformed ETS should be the centrepiece of New Zealand's emission reduction efforts but should provide greater guidance on price, and become revenue raising by auctioning of New Zealand emission units. The Tax Working Group has further recommended the ETS be subject to periodic review to ensure it is fit for purpose.

Waste disposal levy

16. Auckland Council supports the recommendation regarding the waste disposal levy. The council is a member of the New Zealand Waste Levy Action Group which commissioned the Eunomia report referenced in the interim report.

17. The council recently adopted its 2018 Waste Management and Minimisation Plan (WMMP). It includes a priority action to advocate for an increased levy and a review of the waste levy structure.

18. It is considered a priority because the council has little influence over commercial waste which makes up around 80% of all waste sent to landfill in Auckland. A higher waste levy may incentivise diversion of waste from landfill to productive use, and investment in resource recovery technologies.

19. The WMMP cautions that a careful approach is required to ensure any levy changes are signalled well in advance, introduced gradually and do not undermine the financial viability of bona-fide recycling activities (for example, car dismantlers who produce waste as a result of their activities).

20. Funding from the levy will need to be made available to local authorities to support education and enforcement activities to address any short-term impacts, national recycling initiatives, along with nationally implemented product stewardship schemes to provide long term solutions for problem items such as tyres.

Emissions Trading Scheme

21. The above recommendation and discussion by the Tax Working Group generally aligns with the council's submission of September 2018 on *Improvements to New Zealand's Emissions Trading Scheme (NZ ETS)*.

22. While the Tax Working Group notes that the ETS could be a significant source of revenue it does not discuss how any revenue should be spent. The council's submission on *Improvements to New Zealand's Emissions Trading Scheme (NZ ETS)* recommends ETS revenues be targeted to:
    - support local government to reduce greenhouse gas emissions while ensuring communities are prepared for climate change impacts
    - support environmental biodiversity in face of climate change
    - support technological innovation to increase climate adaptation and mitigation.

Congestion charging

23. As a member of the Congestion Question project, Auckland Council supports the investigation of a congestion charging scheme for Auckland to improve the performance of the transport network and more accurately reflect the cost of certain trips.

24. The council notes this is a complex area, and that before the introduction of any scheme, the economic, social and environmental effects will need to be understood

and appropriately addressed. For instance, the introduction of congestion charging on top of a regional fuel tax would be particularly burdensome for low-income Aucklanders.

Tax Working Group's statements/comments in its interim report

Over the medium term, there could be benefits from greater use of tax instruments to address challenges in both water pollution and water abstraction. Addressing Māori rights and interests in fresh water should be central to any changes.

In the longer term, new tools could allow for an expanded role for environmental taxes to address other challenges such as biodiversity loss and impacts on ecosystem services.

25. Auckland Council submits that improving water quality requires a comprehensive multi-pronged approach in which environmental taxes could feature.

26. Any environmental taxes developed to improve water quality need to be integrated with, and be complementary to, the National Policy Statement on Freshwater Management and other aspects of Central Government's Essential Freshwater Programme. The council notes the Three Waters Review is underway.

27. We understand the three main objectives from the Essential Freshwater programme are:
    - stopping further degradation and loss
    - reversing past damage
    - addressing water allocation issues.

28. The council notes that while there is greater understanding and modelling capability for nitrogen and phosphorus pollution dynamics, a large array of pollutants affect fresh water from a range of sectors.

29. Further, the council would consider supporting greater use of tax instruments to address water pollution and water abstraction, though matters relating to Māori rights and interests in freshwater would first need to be resolved (assuming revenue from any such tax(es) would be allocated to the government and/or councils, or for mana whenua led rehabilitation or planting programmes for rivers and streams, or biosecurity/pest eradication activities).

30. The council submits that where councils are required to help implement and/or administer taxes, they should be adequately compensated.

31. It should be noted that as part of Auckland Council's 2018 10-year-Budget, Aucklanders prioritised spending to protect our natural environment and improve water quality across the region. The council has ring-fenced $452 million raised through a water quality targeted rate for projects that will ensure cleaner beaches, streams and harbours. The $311 million natural environment targeted rate will help protect our natural environment and tackle the pests, weeds and diseases that are threatening our native species.

Tax Working Group discussion – tax concessions

The Tax Working Group acknowledges the practical difficulties involved in applying fringe benefit tax to employee car parks.

In recognition of this constraint, the group suggests Central Government examine the possibility of allowing employers to subsidise public transport use by employees without incurring fringe benefit tax.

At the moment, the provision of free car parking to employees is not subject to fringe benefit tax, yet any contribution made to an employee's public transport costs is taxed. This has the perverse impact of discouraging the use of public transport.

32. Auckland Council supports the suggested introduction of an exemption from fringe benefit tax for public transport.

33. As set out in in the New Zealand Transport Agency research report 474 *Company cars and fringe benefit tax – understanding the impacts on strategic transport targets*, "employees who receive significant parking subsidies (through [fringe benefit tax] exemptions) are more likely to drive than use alternative modes of transport".

34. This outcome runs contrary to the strategic urban and transport policy objectives of both the council and the government. Allowing employers to subsidise employee public transport use in a similar fashion to employee car parking would help mitigate or remove this distortion.

35. Auckland Council also notes the rise of different forms of personal mobility which can be used as means of transport to and from employment (for example, bike share). The council suggests that the Tax Working Group explore the extent to which employers make contributions to their employees' transport costs via other transport modes and consider whether this should also be excluded from fringe benefit tax.

Housing affordability

Tax Working Group's statements/comments in its interim report

The Tax Working Group's work on housing affordability is closely linked with its work on the taxation of capital income. The group will have particular regard to housing market impacts as it finalises its recommendations regarding capital income.

36. Auckland Council notes that the Tax Working Group is aware that any recommendation(s) it ultimately makes in respect of extending the taxation of capital income could have significant impacts for assets held by Māori in collective ownership.

37. Exempting Māori land (freehold collective and commercial redress land) from capital income tax would likely support Māori entities to achieve economic and social development outcomes without further taxing their land, bearing in mind that Māori owned land is generally held inter-generationally and much less likely to be sold for capital gain compared to other land. And in the event such land was subsequently sold, it would then become liable for a capital income tax, just as non-Māori land.

38. The council notes the Tax Working Group intends to use the period between the interim and final reports to better understand this asset base and explore potential implications with Māori stakeholders. Auckland Council supports these discussions taking place.

Tax Working Group discussion

The Tax Working Group identifies three options that could release some additional supply:

1. Restoration of depreciation on multi-unit residential buildings. (New Zealand abolished depreciation deductions for buildings in 2010, with effect from 2012). The group is considering whether there is a case to reinstate depreciation deductions for certain types of buildings and will provide recommendations on this in its final report.
2. Introduction of a tax on vacant residential land or on empty homes in residential areas.
3. Removal of the 'ten year rule[1]' (rule would need to be reconsidered if capital income taxation is extended further).

39. Auckland Council submits that there is no single solution to resolving the housing crisis and improving housing outcomes (whether people rent or own the home they live in). The use of multiple levers is required.

40. The council is supportive, in principle, of initiatives that will:
    - make more serviced/developable land available for housing and commercial activities (particularly in brownfield areas) in accordance with the Auckland Development Strategy and Future Urban Land Supply Strategy
    - help resolve the current housing crisis and result in better housing outcomes.

41. As stated earlier, the Tax Working Group should satisfy itself that its recommendations are supported by robust evidence, drawing on lessons and experience from other jurisdictions whilst being cognisant of any perverse impacts and/or costs.

Tax on vacant residential land and empty homes in residential areas

42. Auckland Council notes any such tax would be in addition to rates already levied on the land/property.

43. Any such tax may be financially burdensome to property owners unable to make their land available for housing purposes. Equally there may be other reasons/issues why the land is not suitable for development (for example, contamination, topography, leftover land from development, or not meeting the minimum section size threshold) or has not yet been developed (for example, lack of capital or unavailability of bulk infrastructure).

[1] Land affected by changes in zoning, consents or other specified changes may be taxed on sale, if the sale is within 10 years of acquisition. If at least 20% of the gain on disposal can be attributed to the change, the whole gain is taxable; however, the taxable amount is effectively reduced by a deduction equal to 10% of the gain multiplied by each year the taxpayer has owned the land.

44. The administration of a tax on empty homes is likely to be contingent on access to utility company and other evidence about utilisation.

45. In the absence of detailed analysis in the interim report, the council submits that in considering its final recommendations, the Tax Working Group should consider matters such as (but not limited to):
    - thresholds (for example, size of land parcels to target, whether land parcels meet feasible development tests and whether they are infrastructure ready)
    - how *empty homes* and *vacant land* are defined (for example, a time bound measure)
    - how the system would be implemented, and by whom
    - whether there is discretion to account for individual circumstances
    - whether taxation of empty homes could be combined with other incentives.

46. If the council is required to assist in the implementation of any such tax, the council would need to at least be compensated.

Removal of the 'ten year rule'

47. Auckland Council understands that in the current situation, land affected by zoning changes, consents, or other specified changes may be taxed on sale, if the sale is within ten years of acquisition.

48. In the interim report, the Tax Working Group states that the ten year rule "creates an incentive for landholders on city fringes to withhold land from development until ten years have passed from a change in land use regulation."

49. On the face of it, the council observes that the 'ten year rule' would have the opposite effect of the intent of a vacant land tax. While a vacant land tax would incentivise a landowner to release land for development (by taxing them for holding land), the ten year rule would appear to tax them for doing exactly that where land has been, say, rezoned from rural to mixed housing urban zone (that is, taxing the landowner for releasing land for development).

50. The council is unaware of the extent in practice to which landholders are incentivised to withhold land from development by the ten year rule. It is suggested that this be further explored, taking into consideration how removal of this rule might incentivise development at the urban fringes versus in brownfields, noting the infrastructure costs for brownfield areas are substantially less than for greenfield areas.

51. We envisage that the Tax Working Group's final recommendation(s) in this regard will be supported by robust evidence.

Restoration of depreciation on multi-unit residential buildings

52. Auckland Council notes that Central Government abolished depreciation deductions for buildings in 2010, with effect from 2012.

53. The council notes that the Tax Working Group is considering recommending the restoration of depreciation deductibility for multi-unit residential buildings.

54. The council supports the restoration of depreciation deductibility for multi-unit residential buildings. We are encouraged by the Tax Working Group's assessment that the restoration would support greater intensification in urban areas.

55. The restoration of depreciation deductibility for multi-unit residential buildings could be of benefit to Māori community housing providers and some forms of papakāinga.

56. The council notes that the group is considering whether to recommend restoration of depreciation deductibility for commercial and industrial buildings as well. The council supports this in principle (subject to further Tax Working Group analysis and exploration of any unintended consequences). The Tax Working Group would also need to be confident that any realised gain in excess of the depreciated value would be taxed as appropriate. Auckland has a large commercial and industrial base. The interim report states that commercial and industrial buildings depreciate faster than other types of residential buildings. Restoration of depreciation deductibility may therefore help with asset renewal decisions.

Other matters

Tax Working Group recommendation

- Retain the 17.5% rate for Māori authorities.
- Extend the 17.5% rate to the subsidiaries of Māori authorities.
- Consider technical refinements to the Māori authority rules, as suggested by submitters, in the Tax Policy Work Programme.[2]

57. In the process of preparing its submission, the council advised mana whenua of the Tax Working Group's interim report and highlighted key topics that may be of particular interest to them.

58. The council notes that the 17.5% tax rate for Māori authorities is lower than the standard company tax rate of 28% in recognition of the marginal tax rate likely to be applying to the ultimate economic owners of Māori authorities. The interim report concludes that the 17.5% rate remains appropriate and recommends that more entities

[2] Submitters have also suggested a number of technical refinements to the Māori authority rules. The main suggestion is to apply a default 17.5% resident withholding tax rate for distributions from Māori Authorities. The default resident withholding tax rate is currently 33%, so Māori authority members on the 17.5% rate will be subject to additional taxation of 15.5% if they do not provide their IRD numbers and file a tax return. Since few members do so, this income is effectively overtaxed. The Group recommends the Government investigate this and other suggestions through the Tax Policy Work Programme.

should qualify for this tax rate, in particular, subsidiaries of Māori Authorities. This would reduce compliance costs and simplify business structures for such entities.

Tax Working Group discussion

The interim report's executive summary notes that the Tax Working Group is currently working with stakeholders to develop a framework to support the future evolution of the tax system that reflects principles from Te Ao Māori, alongside the four capitals of the Living Standards Framework and the principles of tax policy design. This includes exploring concepts of waiora (wellbeing), manaakitanga (care and respect), kaitiakitanga (stewardship), whanaungatanga (relationships and connectedness), and ōhanga (prosperity).

59. The council looks forward to seeing the outcome of this work and its application to the detailed design changes to the tax system.

Conclusion

60. Auckland Council thanks the Tax Working Group for affording us the opportunity to submit on this important topic.

61. Our submission highlights a number of matters that the Tax Working Group should take into consideration before making its recommendations.

62. The council would welcome the opportunity to discuss the matters raised in this submission.

63. Auckland Council wishes the Tax Working Group well in its endeavours and we look forward to the group releasing its final report.