

REPORT TO COUNCIL

Meeting Date: 30 SEPTEMBER 2009

Subject: STEWART ISLAND VISITOR LEVY

File No.: 140/20/2/1

Report by Mr Wayne Heerdegen dated 22 September 2009.

1. **SUMMARY OF REPORT**

At the request of the Stewart Island Community Board this paper proposes a levy on visitors to Stewart Island for the purpose of meeting the infrastructure, amenity and services costs attributable to visitors to the Island. Stewart Island receives a high number of short term visitors that place pressure on local infrastructure which is currently paid for by a very small rate base. This rating base is unable to capture the benefits from visitors due to a significant portion of those economic benefits leaking to goods and service providers based in Invercargill. The underlying problem is that local infrastructure and amenities are a non-excludable good with few or no incentives on users (visitors) or non Stewart Island based beneficiaries to provide or fund them.

The supply, development and maintenance of infrastructure, amenities and services is important for not just the social and economic well-being of Stewart Island but also to minimise impacts to the environment, thereby contributing to improving the conservation estate.

Analysis has been undertaken assessing the options to address this problem. Options considered are general rates, a targeted rate, voluntary contributions from business, direct Government funding and a visitor levy. These options include variations such as a bed tax, user charges, tolling (roads), development contributions, Government subsidies and diversion of GST.

Signature

_____ Author

_____ Executive Staff

SUMMARY OF REPORT (Cont'd)

The assessment of these options reveals that there are limitations to directly charging those who directly benefit from visitors to the Island, either by a targeted rate, voluntary contributions or sub-variation such as a bed tax or user charge. These could, in theory, be a first best option, however, the administrative costs to identify all beneficiaries on and off Stewart Island accurately, and in particular to enforce this funding mechanism on beneficiaries who are outside of the Southland District, means this would not be efficient, equitable or effective. Additionally, the costs of day trippers to Stewart Island would not be recovered. The next best options are a levy or direct Government funding.

An increase in general rate would not be appropriate due to the significant increase in costs on all ratepayers which would not be commensurate to the benefits received. However, to afford negative incentives, such as ratepayers shifting costs on to visitors, it is recommended that any levy be set in a transparent and open manner.

Direct Government funding, via grants, subsidy or diversion of Government tax revenue is an option that could be explored further. The main disadvantage of this option is unless a secure ongoing funding stream is obtained, any Government financial contribution may only be for a limited time or limited amount and not provide the stable long term funding path that is needed for Stewart Island.

Therefore, establishing a levy on visitors is the most efficient, equitable and effective means of recovering infrastructure, amenity and service costs.

There are two methods by which a levy could be implemented. One is by voluntary agreement with tourism/transport operators; the other is by a compulsory levy established by legislation. A voluntary levy has been explored in some depth over the last five years, however, the latest attempt has been unsuccessful due to difficulty in obtaining agreement with all tourism/transport providers. A compulsory levy is the remaining option which would provide an equitable and efficient mechanism for stable long term funding.

A poll of the Stewart Island community revealed a strong support for a visitor levy.

The establishment of a compulsory visitor levy would require legislation to be passed by Parliament to provide the District Council, on behalf of the Stewart Island community, with the legal mechanisms to receive and expend revenue obtained from a levy. At present, it is contestable as to whether the Local Government Act 2002 and the Local Government (Rating) Act 2002, or any other legislation, would provide an adequate mechanism for establishing a visitor levy by the Southland District Council or other entity. Clear legislative purpose is needed to provide an efficient, equitable, sustainable and reliable revenue stream that is transparent to the public.

Legislation would set the governance and administrative arrangements for the levy, including the process for setting and reviewing the levy. The legislation would also need to include a definition of who is a visitor to Stewart Island. To administer the levy it is proposed that the Council establish a subcommittee consisting of two representatives from the tourism industry, two Community Board members, two District Councillors of which one will be the local Councillor for Stewart Island, the other an independent Councillor, and a representative of the Department of Conservation. It is recommended that the Committee chair is the independent Councillor.

Legislation would be introduced to Parliament by way of a Local Bill or a Government Bill. Local Bills are legislation that are promoted by local authorities and deal with matters confined to a particular locality to allow a function not authorised in the general law to be undertaken. Examples of local bills are the Tauranga District Council (Route K Toll) Empowering Act 2000 and the Wanganui District Council (prohibition of Gang Insignia) Act 2009.

There is a fee of \$2,000 (including GST) payable to the Clerk of the House of Representatives, for the lodging of a Local Bill. Discussion with the Chief Executive has indicated that there is the ability for the Southland District Council to pay the fee.

2. **RECOMMENDATION**

- (a) THAT THE REPORT ON A STEWART ISLAND VISITOR LEVY BE RECEIVED.
- (b) THAT THE COUNCIL CONTINUE THE PROCESS TO PROVIDE FOR LEGISLATION THAT ENABLES THE COUNCIL TO ESTABLISH A LEVY ON VISITORS TO STEWART ISLAND FOR THE PURPOSE OF FUNDING THE COSTS OF INFRASTRUCTURE, AMENITIES AND SERVICES.

3. **REPORT**

3.1 **Background**

Stewart Island receives a high number of short term visitors that place pressure on local infrastructure and amenities which are funded from a small rate base. The underlying problem is that local infrastructure and amenities are a common resource (public good) with few or no incentives on external users and beneficiaries to provide or fund them.

Stress on Stewart Island infrastructure and amenities arise from the mismatch between the infrastructural requirements for existing rateable properties and the needs for large numbers of visitors at peak times. This problem is akin to sharing a house with three people and then every weekend having to cater for 300 visitors. Further stress on infrastructure and amenities occur due to the isolation and need for shipping, creating higher costs for the planning, construction and operation of infrastructure and amenities used by visitors.

These issues were considered in detail in the 2003 report "Effects of Tourism Demand on Water and Sewerage Infrastructure in Four Local Authorities" for the Ministry of Economic Development. This report included a detailed study of Stewart Island/Rakiura, relevant excerpts have been attached as Appendix 2¹. A significant point from this study is that analysis of costs and cost recovery (from tourism activity) for expenditure for water and sewerage on Stewart Island reveals that estimated annual costs are \$8,000 to \$9,000 higher than the funding received tourism activity².

¹ The full report is available from the Ministry of Tourism and Ministry of Economic Development.

² Page 7, Effects of Tourism Demand on Water and Sewerage Infrastructure in Four Local Authorities, August 2003 - report by Market Economics for the Ministry of Economic Development and the Ministry of Tourism.

Since this report, very little has changed in the funding scenario for Stewart Island/Rakiura. Tourism activity has continued to develop and continue to strain local facilities, infrastructure and amenities. Further planned cruise ship visits to Stewart Island/Rakiura for the 2009/10 summer season will add additional high season demand, one planned cruise ship visit may add 1,000+ day visitors. Cruise ship visits already place larger communities under stress, for Stewart Island/Rakiura, the burden will be higher.

In the long term, cruise ship visits and increased tourism activity will provide a stronger and more prosperous local economy, however, this will only occur if the required facilities, infrastructure and amenities are in place. If there is not a stable revenue stream to fund this, then there is a high risk that visitors will be deterred from Stewart Island. This has already happened when earlier proposed cruise ship visits did not eventuate due to the inability by Stewart Island to provide adequate services.

Various options for a levy on visitors to Stewart Island/Rakiura have been discussed by the community for the last 30 or more years, the objective of any levy being to fund expenditure related to the provision, construction, renewal and operation of infrastructure, amenities and services on Stewart Island that are utilised by visitors.

The most recent approach to a visitor levy started in 2005 when Venture Southland was approached to investigate a visitor levy. A working party was established to develop a proposal and draft memorandums of understanding to enable a visitor levy to be collected via Stewart Island travel operators. This essentially was a proposal for a levy to be voluntarily applied to visitors to be collected by travel operators.

Full agreement to the voluntary system was unable to be reached, thereby undermining the effectiveness of any voluntary system, due to the ability to free ride on the actions of other contributors.

With a voluntary levy no longer possible, this paper considers alternative funding options for Stewart Island.

3.2 **International Comparisons**

Tourism taxes, levies and charges are relatively common throughout Europe and the United States. An additional variation in the United Kingdom and Ireland is an air travel tax that is additional to airport charges.

The United States allows local authorities to implement various travel taxes on lodging, car rentals, meals over and above general sales taxes. These vary in total cost from US \$21.50 a day to US \$41.00.

In France visitors are usually asked to pay a tourism tax or a flat-rate tourism tax, the rate of which is fixed by the local authority and varies from €0.15 to €1.07 per person per day, according to the quality and standard of the accommodation. Where the tourism tax is not flat-rate, children aged less than 4 years are exempt from this tax, and those aged less than 10 years pay half-rate. This tax is collected by the owner of the accommodation and will be included in the hotel bill or property rent.

Germany and Switzerland allow visitor tax fees to be charged per person with rates varying between €0.80 per person per day to €2.00 per person per day. Discounts and concessions may also apply depending on seasonality and length of stay.

Australia currently has a tourist tax, levy or charge in place in three locations being:

- Rottneest Island off the coast of Western Australia near the city of Perth;
- Lord Howe Island in the Tasman sea being approximately half way between Sydney and Norfolk Island; and
- The Great Barrier Reef marine park.

In addition Kangaroo Island in South Australia near the city of Adelaide is currently considering a visitor levy.

3.3 **Options Considered**

Options to resolve the problem of stress on Stewart Island infrastructure include:

- (a) Rates - all ratepayers to contribute to development of visitor facilities.
- (b) Targeted rate, voluntary contribution, bed tax - charging mechanism on those who directly benefit from tourist activity.
- (c) Fees and charges.
- (d) Direct Government funding - approaching Central Government for an annual subsidy to fund visitor facilities.
- (e) Restricting visitors to the Island.
- (f) Visitor levy established by legislation.

The advantages and disadvantages of each option is considered below. Further analysis is provided in Appendix 1, which assesses each option on its appropriateness, efficiency, equity and sustainability.

A. General Rates

Whilst administratively simple and possible under existing legislation, an increase in general rate would not be appropriate due to the significant increase in costs on all ratepayers which would not be commensurate to the benefits received.

To raise the equivalent estimated revenue of \$160,000 generated from a \$5.00 levy on visitors, there would need to be an increase in Uniform Annual Charge on Ratepayers of \$353.59. This increased cost on all ratepayers would be neither affordable nor sustainable long term. The potential long term effect would be to reduce further the rating base on Stewart Island, placing additional cost stress on the remaining ratepayers to fund costs.

However, to afford negative incentives, such as ratepayers shifting costs on to visitors, it is recommended that any levy should be set only to fund a portion of costs attributable to infrastructure and amenities used by visitors.

B. Targeted Rate, Bed Tax or Voluntary Contribution

A charging mechanism that targets those who directly benefit from visitors to Stewart Island could be established by either targeted rates, voluntary contributions or sub-variation such as a bed tax or user charge. This would predominately focus on transport operators, accommodation providers and other commercial activity that generates income from visitors.

This option has significant advantages, in particular a differential rate which would be possible under existing local government legislation. In addition, the businesses and ratepayers subject to any charging mechanism would be able to recover costs through prices for goods and services.

The main disadvantage of this option is that other residents and ratepayers are unlikely to receive discounted prices for goods and services provided by the targeted commercial operators. In effect, they would be paying twice, having paid originally through their rates and not in turn being able to pass on the higher cost of goods and services.

A further disadvantage is the administrative costs and barriers to identifying all beneficiaries on and off Stewart Island accurately, and the subsequent ability to obtain revenue from beneficiaries whose base of operations is outside of the Southland District. These issues are known as the “free rider” problem referring to a person who is able to extract a benefit provided from the activities of another person.

C. Fees and Charges

It may be legally possible that the Southland District Council could establish a user pays system for community facilities, infrastructure and amenities through the Local Government Act 2002 (LGA). The mechanism by which this could be achieved is through either Section 12 or Section 103(2)(c) of the LGA relating to fees and charges.

Under Section 12 (2), a local authority has full capacity to:

“... carry on or undertake any activity or business, do any act, or enter into any transaction.”

It may be possible for the Council to use this provision to apply a charge for goods, services or amenities provided under the authority of Section 12³.

Alternatively, Council could use the provisions in Section 130(2)(c) whereby the Council could amend its revenue and financing policy to provide for the use of fees and charge for community facilities, infrastructure and amenities. The fees and charges would be established through the community individual activity plans that form part of the Long Term Council Community Plan (LTCCP). Each activity relating to Stewart Island, including grants, would need to include that a permit, approval or authorisation is required to use the facility, infrastructure or amenity and that there is a fee or charge for the permit, approval or authority⁴. The fee or charge would then be enabled through a Council bylaw or bylaws.

With either approach, the Stewart Island community may not be able to provide a fee or charge for the local roading network that is currently funded by rates due to restrictions established by the Land Transport Management Act 2003 (LTMA). There is a proviso to the LTMA requirements that may allow a service fee to be charged to access the local road network. However, this is potentially drawing a long legal bow and likely to be subject to either Court action or amendment to the legislation to disallow this option.

³ Section 150 (6) Local Government Act 2002

⁴ Local Government Act, Section 150 - fees maybe prescribed by Bylaws

D. Government Funding

There are two alternative Government funding options:

- (a) direct assistance from the Government; and
- (b) applying for existing grants or subsidies provided by the Government to support tourism or local communities.

An example of direct assistance is the recent announcement for the Government to co-fund with Auckland City the purchase of Auckland Waterfront property to use as a base for the Rugby World Cup 2011. Another example is Government financial assistance for the Chatham Island Council of approximately \$1.9 million per annum.

An example of a grant or subsidy scheme is the Tourism Demand Subsidy Scheme established by the Ministry of Tourism in 2004. This scheme was allocated \$11 million over three years (2004-2007) to assist small communities with high tourism flows to invest in water and sewerage infrastructure. Over 32 communities from 16 Districts applied to the scheme with grants approved to nine Councils. This scheme was renewed once the existing funds were allocated.

The advantage of Government funding is its universality as the revenue received by the Government is contributed by residents, ratepayers and visitors through income tax or GST.

The main disadvantages of this option are:

- Competing priorities for Central Government funding means any appeal to the Government is like being a contestant in a beauty competition. There is the strong possibility that other Government priorities will receive attention before funding is considered for Stewart Island.
- Government funding may not provide a secure ongoing revenue stream to meet the future costs of Stewart Island infrastructure and amenities. Any Government financial contribution may only be for a limited time or limited amount.
- Potentially significant costs over time to the community through the need to repeatedly lobby the Government to secure agreement to renew funding.

E. Restricting Visitors to the Island

Restricting visitors to Stewart Island is the reverse of a visitor levy to fund infrastructure and amenities. The purpose of restriction would be to reduce visitor numbers to a level that avoids generating stress on Stewart Island infrastructure and amenities. Legislation would be required to define who is a visitor and provide the powers to bar visitors to Stewart Island.

This option is not considered realistic with significant negative social and economic impacts on Stewart Island. There would also be significant enforcement costs by the Government that may exceed the cost to Government or the Council of a direct subsidy to fund infrastructure and amenities.

F. Visitor Levy

A visitor levy recognises the fact that Stewart Island is subject to significant visitor volumes. All these non-resident, non-Stewart Island ratepaying visitors enjoy and benefit directly from maintained infrastructure and amenities on Stewart Island. Whilst the economy of Stewart Island has been shifting from a traditional base of fishing to tourism, it is not likely that the tourism providers on Stewart Island will have the critical mass to fund the infrastructure and amenity costs of visitors.

By analogy, a visitor levy is similar to a departure tax levied at an airport to collect revenues to fund improvements in airport facilities. An alternative analogy is that a visitor levy is similar to a road toll collected to fund for the development and maintenance of roading infrastructure. Tauranga has had two road tolls used successfully for developing infrastructure, one for a harbour bridge and the second to fund "Route K", a new expressway linking the city to the state highway network.

Revenue from any levy on visitors would be available to fund infrastructure and amenities on Stewart Island for use and enjoyment by visitors. The advantage of a visitor levy is direct targeting of those who generate stress on infrastructure and amenities, a long term security of funding.

A visitor levy could be administered relatively simply through the providers of transport services to Stewart Island, including the levy as a line item on tickets to Stewart Island. An alternative option would be to set up a dedicated collection desk at departure or arrival points, however, the costs of a dedicated collection desk is likely to be prohibitive. Therefore, it would be more efficient and effective to collect the levy through transport providers.

The establishment of a compulsory visitor levy would require legislation to be passed by Parliament to provide the District Council, on behalf of the Stewart Island community, with the legal mechanisms to receive and expend revenue obtained from a levy. Legislation would set the governance and administrative arrangements for the levy, including the process for setting and reviewing the levy. The legislation would also need to include a definition of who is a visitor to Stewart Island. At present, neither the Local Government Act 2002 and the Local Government (Rating) Act 2002, or any other legislation, provides a mechanism for enforcement of a visitor levy by the Southland District Council or other entity.

Legislation would be introduced to Parliament by way of a Local Bill or a Government Bill. Local Bills are legislation that is promoted by local authorities and deal with matters confined to a particular locality to allow a function not authorised in the general law to be undertaken. Examples of Local Bills are the Tauranga District Council (Route K Toll) Empowering Act 2000 and the Wanganui District Council (prohibition of Gang Insignia) Act 2009.

3.4 **Framework for Analysis of Revenue Collection Mechanisms**

In assessing the alternative mechanisms for collecting revenue (rates, fees, charges, levy), the following criteria based on the principles of good tax (charging) design provides guidance to evaluate different options:

- (a) Efficiency - does the charge significantly distort behaviour in a way that results in additional burden being borne by a payer for goods and services over and above what they would have been willing to pay? Alternatively, is a payer receiving more goods and services for less than they are willing to pay? The difference between what they would have paid and consumed, and the price paid is typically called by an economist "the dead weight loss".
- (b) Equity - does the burden of the charge fall disproportionately on particular individuals or groups within a community, which may give rise to concerns?
- (c) Fiscal Integrity - does the charge generate sustainable, reliable revenues for the community to meet its expenditure requirements over the longer term?
- (d) Transparency - part of good charging design is to ensure that the system is transparent. This means the underlying purpose and principles behind the design of the charging regime are clearly identified. It should be clear what is being charged, who is liable and how their liability is calculated.
- (e) Cost effective - the policy intent of the charge is transparent and the regime is administered in a straightforward and consistent manner; compliance and enforcement systems should include a clear and unambiguous definition of the base to be charged and provide a simple means of collection. Administration and compliance costs should be as low as is compatible for the other objectives of the charge.

On these criteria, a preferred option would raise the target amount of revenue with minimal impact on behaviour, treat payers equally, be administratively simple to collect, impose low compliance costs and provide no opportunities for avoidance, and ensure revenue stability.

3.5 **Preferred Option**

The analysis framework and further detailed options analysis are set out in Appendix 1: Stewart Island/Rakiura funding Options Assessment.

The Stewart Island/Rakiura Funding Options Assessment and the framework for analysis of revenue collection mechanisms helps to identify a preferred option being a visitor levy supported by its own legislation. In considering the different revenue options it can be noted that there is a legal impediment to the efficient recovery of costs through rates removing this as a viable option. The option direct Government funding whilst having some appeal to the local community has a significant problem with the reliability and quantum being very uncertain; additionally given the current economic circumstances, a successful approach to Government would be a high risk approach. Therefore, this option is also not recommended.

The alternative of potentially using the Local Government Act 2002 to establish fees and charges for all facilities, infrastructure and amenities on Stewart Island/Rakiura is likely to be administratively complex, uncertain due to probable legal challenge and probably restricted in its ability to recover costs of certain types of infrastructure, in particular roading.

The option that is more likely to raise the target amount of revenue with minimal impact on behaviour, treat payers equally, be administratively simple to collect, impose low compliance costs and provide no opportunities for avoidance, and ensure revenue stability is a visitor levy.

On this basis, the preferred option is providing for a visitor levy through an Act of Parliament.

3.6 **Issues**

Contents of Legislation

The main purpose of the proposed local bill is to provide the Southland District Council with the ability to adopt bylaws that give effect to a levy or similar financial charge on persons or vessels visiting Stewart Island. This would include powers relating to the setting, collection, enforcement and expenditure of a levy or similar financial charge. Legislation would need to provide the following:

- Purpose of the levy;
- Definitions (Interpretation) for any terms that need specific legal clarity or reference;
- Bylaws to give effect to and administer the levy;
- Administration of the levy;
- Consultation procedure;
- Exemptions from payment of the levy;
- Rate of the levy;
- Collection of the levy;
- Liability for payment of the levy;
- Payment of the levy;
- Powers in respect of non-payment;
- Annual reporting;
- Publication; and
- Offences.

Purpose of the Levy

As the underlying problems giving rise to the levy are the need to recover costs associated with infrastructure, amenities and services used by visitors, the purposes to which any revenue received under a visitor levy is collected and expensed should be limited to funding these costs.

To avoid positive or negative incentives on Stewart Island resident and ratepayers, the purposes to which any revenue received under a visitor levy is collected and expensed should be limited to infrastructure and amenities impacted by visitors to Stewart Island.

Who is a Visitor?

A key question for any legislation is determining who is a visitor to Stewart Island. The purpose of the proposed visitor levy is to recover infrastructure and amenity costs generated from persons who are neither normally a resident or a ratepayer on Stewart Island.

As residents and ratepayers will continue to contribute to their share of infrastructure and amenities through rates, it is recommended that the proposed legislation imposes a levy only on persons who are not a resident or ratepayer.

This could be achieved by defining in the legislation who is a resident or ratepayer. Alternatively, to avoid uncertainty of the requirement to pay the levy, the legislation would first be applied universally to all persons travelling to Stewart Island but to provide the Southland District Council the power to establish a bylaw that excludes a defined group of persons, being residents and ratepayers, from paying the levy.

Under this definition, a Southland District Council staff member visiting Stewart Island, would be liable to pay the levy should they arrive on Stewart Island. However, if that staff member was a resident or ratepayer of Stewart Island, they would not be liable for the levy.

The bylaw would allow for the community to regularly review who is the defined group of persons excluded from paying the levy, allowing coverage for seasonal employees or another group of persons of whom the levy will not be collected from. This process would avoid the need to regularly petition Parliament for amendments to the visitor levy should there be problems with the initial definition of who is a visitor.

Rate of the Levy

It is proposed that any levy be initially set at a rate no greater than \$5.00 per person (\$2.50 each way). Based on 32,000 visitors to Stewart Island, this would generate revenue of \$160,000 per annum. In order to generate this type of revenue from purely a local rate, this would result in a Uniform Annual Charge of \$353.59 on every rateable property on Stewart Island.

An 18 month lead-in period will be required from the date the rate is established to the date it is collected by transport providers. This lead-in period is to enable providers to incorporate changes in the levy into ticketing information. This recognises the demands on transport providers to provide international markets with ticket price information 18 months in advance.

After an initial three years, the rate should be reviewed and a new rate established based on the estimated funding required to provide for planned visitor infrastructure and amenities. Any review should be conducted as part of the Southland District Council's annual plan or Long Term Council Community Plan (LTCCP).

Collection of Levy

Access to Stewart Island requires air or sea transportation due to its geographic separation from the South Island of New Zealand. Due to this geographic separation, there are a limited number of departure and arrival points for travellers to Stewart Island. Therefore, a levy could be collected by way of a dedicated collection desk at departure or arrival points, or could by agreement with transportation providers be included as part of the sale of transportation tickets to Stewart Island.

Agreement with transport providers would be the preferred collection method as this is likely to be the least cost and administratively simple option. To allow collection of the levy under either option, the proposed legislation will need to either provide powers for an authorised officer to collect the levy, or require all providers of transport services to Stewart Island to collect the levy. In addition, there would need to be powers requiring transport services to account for and pass on all levy revenue to the Southland District Council. The Council should also have a power to audit the information provided by tourism providers to ensure levy revenue is properly accounted for. It would be appropriate for a portion of the levy to be used to reimburse the reasonable costs of the transport providers for the collection of the levy.

An issue will be the ability to identify and collect the levy from people travelling on charter vessels or private transport. For the majority of these travellers, it is likely that education of the fee would result in compliance, however, in all cases it is likely that there will be some individuals that will not comply.

To address non-compliance, included in the legislation will be a summary of offence provisions for any person seeking to avoid the levy or falsely claim to have paid the levy. This offence provision will also be supported by enforcement powers for designated Council staff.

Powers in respect of Non-Payment

If any levy payable remains unpaid after it is due, legislation will need to provide powers to refuse entry by the person to Stewart Island or recover as a debt from the person liable to pay the levy and any related collection expenses.

Administration of the Levy

The proposed legislation will require powers to set a levy and enforce collection. These powers require that there be an accountable territorial authority to administer these functions. Therefore, the legislation will expressly establish the Southland District Council as the body responsible for the administration of the levy, including regular financial reporting.

Whilst the Southland District Council will oversee administration of the levy as a requirement of legislation, there is a need to include the wider Stewart Island community in the administration process to ensure they are well informed and have the opportunity to consider the performance of the levy and its administration.

It is proposed that the role is made explicit through the establishment of a Subcommittee of the Southland District Council. The Subcommittee is to consist of:

- Two representatives from the Stewart Island Tourism Industry;
- Two Community Board representatives;
- Two representatives of the Council, one being the Councillor responsible for Stewart Island, the other to be an independent Councillor; and
- A representative from the Department of Conservation.

It is recommended that the Chair of the Committee be the independent Councillor.

In addition, there will be a requirement on the Southland District Council to prepare an annual report on the levy, including audited information on:

- The total amount collected by way of the levy in the financial year;
- The total amount used to meet costs, charges and expenses in relation to the levy;
- Particulars of the activities which have been funded by the levy;
- The remaining unspent funds; and
- Other financial and non-financial information relevant to informing the community on the levy and use of funds.

The annual report is to be reviewed by the Subcommittee responsible for the administration of the levy.

The view of the Stewart Island community on the administration of any visitor levy has previously been sought, by means of a residents' survey which included a question on who should administer a visitor levy. A total of 129 responses to the survey were received, of which 119 were in favour of the levy and only eight against. Additionally, of all the responses, only 16 indicated that the administration of the fund should be by an organisation other than the Southland District Council and/or the Stewart Island Community Board. Further submissions in support of a visitor levy have been received through the recent LTCCP process.

Administration Costs

Whilst it is intended to mitigate administration costs as much as possible, there will be costs related to the governance, operation and audit of any levy. Governance costs would be those related to travel and meetings for the Subcommittee.

It is anticipated that the reasonable administration costs should not exceed \$5,000 per annum. The largest significant contributor to costs is likely to be fees payable to Audit New Zealand. However, in some years, costs could be higher depending on the level of activity required, for example a major review of how the levy is working. These costs will need to be reimbursed from the levy in a similar manner as costs for transport providers in collecting and passing on the levy.

The Council Subcommittee for the levy will have the responsibility to check and approve administration costs.

Levy Reporting

To ensure transparency in the administration of the levy, the administrator will be required to prepare and adopt a report at the beginning of each financial year, setting out a set of estimates in relation to the levy to be collected and applied under any legislation. The report should be prepared at the beginning of the financial year beginning 1 July and for each subsequent year in which the levy is collected.

The preparation of the report would include requirements on the administrator to consult with the Stewart Island community and any transport operators that are involved in the collection of the levy.

As this levy is proposed to be established by legislation, a further requirement for the administrator will be to send a copy of the report to the Chief Executive of the Department of Internal Affairs, being the agency appointed by the Minister of Local Government to administer the Local Government Act and local government issues.

The report should contain the following audited financial statements:

- A statement setting out the rate of the levy payable;
- The total amount collected by way of the levy in the financial year;
- The amount used in meeting costs, charges and expenses for the collection and expense of the levy;
- The particulars of any activity funded by the levy, including the total amount of levy funding and source of other funding for that activity.

Publication of Report

The report on the levy should be made available for public inspection at the Southland District Council offices and libraries and should be, as soon as practicable, published in the major daily newspaper and at least one other weekly newspaper circulating in the Southland District.

Copies should be made available to the public free of charge or at reasonable charge. Copies should also be sent to the agent of the Minister of Local Government, the Controller and Auditor General and the Parliamentary Library.

Review of Levy

The Local Government Act 2002 requires a review of any new bylaws five years after their creation, with a rolling 10 year review requirement from then on. As several parts of any visitor levy will require Council bylaws, the requirements of the Local Government Act would provide a suitable trigger to review the visitor levy. A review of the levy could also be undertaken at any time by the proposed Council Subcommittee responsible for the levy, or by the recommendation of the Minister for Local Government.

The scope of any review should be to consider the general operation of the levy, amendments needed to improve its working, and an assessment of whether the levy has met its intended purpose, or if another funding source would better provide for the costs associated with visitors to Stewart Island. This timeframe should not prevent the administrator from reviewing the levy earlier if monitoring information indicates a need to do so.

Offences

To ensure that the legislation is effective and to avoid fraudulent behaviour, an offence provision will need to be included within the legislation. The type of offences that could be committed should be limited to those that are not already covered by other legislation, such as the Crimes Act. The offence provision should only be a summary offence limited to payment of a fine. The level of any fine should be consistent with other summary offence fines, with the maximum fine to be no more than \$500.00.

The type of offences to be covered would be where a person evades payment of the levy, makes a false claim for exemption, or resists or obstructs an authorised person in the execution of their duty in relation to the levy.

3.7 Policy and Plan Considerations

A levy on visitors to Stewart Island would require legislation delegating powers to the Southland District Council to administer the levy scheme, including collection, reporting and enforcement.

3.8 Consideration of Community Views

The Stewart Island Community Board has previously considered the establishment of a voluntary visitor levy. A working group was established to resolve issues, however, full agreement of all transport operators was unable to be achieved.

The views of the community on a visitor levy were sought through a residents' survey and as part of the submissions process on the Southland District Council's Long Term Council Community Plan (LTCCP) process. A total of 129 responses to the survey were received, 119 were in favour of a levy and 8 against. Additionally, of all respondents, only 16 indicated the administration of the fund should be by an organisation other than the Council and/or the Community Board. This amounts to 14% of all responses. Five submissions on a visitor levy were made to the LTCCP all in support; no submissions of opposition were received.

Should any legislation be established, the Parliamentary process would seek additional community views and concerns through the select Committee process, where individuals would be able to submit on the proposed legislation.

Transport/Tourism Industry Views

Whilst there is broad support for the visitor levy, transport/tourism operators have concerns about the levy and its governance. These concerns fall into three groupings. The first is opposition to the levy itself with a concern that the cost will deter visitors resulting in a net loss to the Stewart Island community through reduced economic activity.

This is a real concern and in economic literature referred to as the price elasticity of taxation, at the same time economic literature considers that there can be a trade-off for levies or taxes where the resulting revenue is used to fund projects that will increase the attractiveness of the visitor experience. What will be critical to the success of the visitor levy is ensuring that the revenue is directed to activities related to the tourism experience so that visitors believe that the expenditure was worthwhile.

An alternative suggestion to the visitor levy is to have Stewart Island businesses pay a percentage of total turnover towards a visitor fund. In essence this is an indirect levy that achieves the same objective. This would be a viable proposition if agreement could be received with all Stewart Island related businesses. The difficulty is in enforcing this agreement and ensuring no party opts out. A mechanism for obtaining compliance could be achieved by having the visitor levy legislation allow for collection to be through a financial arrangement other than a direct levy on visitors. This would also ensure a fall back position of direct levy is in place which can be enforced should any party seek to opt out and free-ride on any alternative agreement.

It is recommended that the visitor levy legislation allow for the setting and collection of the levy to be either through a direct charge, by way of percentage of turnover or other financial arrangement whichever provides for the most efficient and equitable system.

The last concern relates to the governance and expenditure of any levy revenues. Operators have previously been concerned that they would not be entitled to have any say on the governance and expenditure however the current levy proposal is to include transport/tourism operators as members of the Council sub-committee responsible for the levy. This will ensure that they have the opportunity to ensure that levy revenue is well managed and directed to those visitor activities that give rise to costs to the Stewart Island community and that overall the levy results in enhancing the overall tourism experience

3.9 **Financial Considerations**

Based on 32,000 visitors to Stewart Island per annum at \$5.00 per levy (\$2.50 each way), there is the potential to generate \$160,000 per annum revenue from a visitor levy. In order to generate this type of revenue from a purely local rate, this would result in a Uniform Annual Charge of \$353.59 on every rateable property on Stewart Island.

There will be initial set up costs required for a visitor levy, for example to provide for collection procedures and enforcement. These costs are not able to be quantified at present, however, the Council will seek to mitigate these costs as much as is reasonable.

There is a specific fee of \$2,000 (including GST), payable to the Clerk of the House of Representatives, for the lodging of a Local Bill. The Chief Executive has indicated that this fee could be funded from the Southland District Council.

4.0 **Legal Considerations**

Visitor levy legislation would impose accountability and reporting obligations on the Southland District Council. Transport providers will also have a legal obligation to collect and account for the levy. A summary offence with a maximum fine of \$500.00 will be payable by any person who evades payment of the levy, makes a false claim for exemption, or resists or obstructs an authorised person in the execution of their duty in relation to the levy.

Bill of Rights

As part of the parliamentary process the proposed visitor levy legislation will be vetted by the Ministry of Justice to consider the legislation is with the Bill of Rights Act 1990 (the 'Bill of Rights Act'). This will formally occur as part of the Select Committee review of the legislation.

There is an initial issue of freedom of movement under Section 18 New Zealand Bill of Rights Act 1990 (the 'Bill of Rights Act').

While we will not be able to provide a final view on the legislation until it is ready for submission to Parliament, our initial thoughts are below.

Under a Bill of Rights analysis, the right is firstly interpreted broadly to determine if there is a prima facie infringement with the particular right. If a limitation of the right is identified, it is then examined if the limitation of the right is justified: that is, whether the limitation serves an important and significant objective; and whether there is a rational and proportionate connection between the provision and the objective.

With freedom of movement, it is likely to be considered to be a prima facie limit on the ability of a person to move physically within New Zealand (i.e. from the mainland to Stewart Island).

However, this limit may be justified as there is a significant objective (paying for visitor infrastructure, amenities and services on Stewart Island) that would be funded directly by the Levy. The Levy would not be available for other non-related costs and would be tailored to the need for visitor infrastructure, amenities and services on Stewart Island.

There is little jurisprudence on the issue of levy or taxes infringing on freedom of movement. What material that does exist focuses on "excessive charges" (Air New Zealand Limited v Wellington International Airport Limited (2009) NZCA 259) or "payment of high fees substantially exceeding the cost of the service rendered by the administration" (UN Human Rights Committee (CCPR) General Comment No. 27 (67) Freedom of movement). So long as the Levy is not excessive and based on the service rendered, it can be argued that it is justified in the circumstances.

Second issues are discrimination under Section 19 of the Bill of Rights Act and the search, arrest and detention issues (Sections 21-27 of the Bill of Rights Act). These arise due to the enforcement provisions of the proposed Levy. There is a strong argument that the proposed enforcement provisions are consistent with the Bill of Rights Act. Any discrimination issues would depend on whether the legislation would make a distinction based on one of the grounds of discrimination set out in Section 21 of the Human Rights Act 1993, as the levy applies uniformly to all persons regardless of: age, race, colour, sex, marital status, religious belief, disability, political opinion, sexual orientation, political opinion or employment, it is unlikely that there is discrimination. As for the search, arrest and detention provisions, these will be avoided by modelling the proposed legislation on similar existing provisions in this area thereby ensuring consistency with the Bill of Rights Act.

5.0 **CONCLUSION/SUMMARY**

This paper has considered the options for funding the costs imposed on Stewart Island infrastructure, amenities and services by visitors to Stewart Island. Analysis recommends the establishment by legislation of a compulsory visitor levy.

Wayne Heerdegen
SENIOR POLICY ANALYST

Appendix 1: Stewart Island/Rakiura Funding Options Assessment

	Appropriateness			Efficiency			Equity			Sustainability	
	Accountability	Local Autonomy	Consistency with central govt	Allocation incentives	Administration costs	Compliance costs	Horizontal	Vertical	Inter-generational	Revenue Potential	Predictability
Rates	High visibility attracts public scrutiny	High if rate set locally	Current govt policy	Small rate base that is unable to capture visitor benefits	Low cost, high effective recovery	Low cost, high effective recovery	Equal treatment of all ratepayers.	Proportional but not progressive. UAC can be regressive.	Some cost shifting between early payers and later beneficiaries.	Buoyant	Predictable in aggregate - potentially volatile for individual ratepayers.
Targeted Rate	High visibility attracts public scrutiny	High if rate set locally	Current govt policy	Narrowly based and intentionally distorting	Low cost, high effective recovery	Low cost, high effective recovery	Equal treatment of large operators: small may not be cost effective to include.	Not progressive.	Some cost shifting between early payers and later beneficiaries.	Buoyant	Variable due to relocations or reclassification.
Direct govt funding	Low visibility and weak link to expenditures	Low as rate probably set by central govt	Conflict with govt local govt funding policy	None	Low once Cg and LG reach agreement	Low	Equal treatment of all SI ratepayers.	Neutral - although ultimate source is tax revenue.	n.a	Buoyant	Predictability subject to CG/LG agreement.
Voluntary contributions	Medium visibility	High if rate set locally	Unlikely to conflict with govt policy	Narrowly based and potentially distorting	High due to new monitoring and return system required. Limited effective recovery.	High	Variable treatment according to individual assessment. Prone to avoidance.	Not progressive.	Contributors face falling returns.	Variable - significant "free rider" problem.	Variable due to relocations, reclassifications or free riding.
Restrict Visitors	High Visibility attracting public scrutiny	NA	Conflicts with government policy and human rights legislation.	NA	High cost potentially limited effect	High	Variable treatment according to individual assessment	Regressive on those with low incomes and with no substitutes	NA	None	Variable due to relocations, reclassifications or free riding
Levy	High visibility attracts public scrutiny	High if rate set locally	Unlikely to conflict with govt.	Narrowly based and intentionally distorting	High due to new monitoring and return system required. Effective recovery.	High due to new monitoring and return system required.	High - equal payment per head. Small amount of gaming due to classification of who is a visitor.	Since this applies to visitors, unlikely to be regressive.	Current drivers pay more to accelerate new infrastructure.	Buoyant with tourism industry fortunes.	Predictability subject to tourism industry fortunes.

Appendix 2 - Extracts from:

Effects of Tourism Demand on Water and Sewerage Infrastructure in Four Local Authorities, August 2003 - Report by Market Economics for the Ministry of Economic Development and the Ministry of Tourism

Capital Costs of Infrastructure⁵

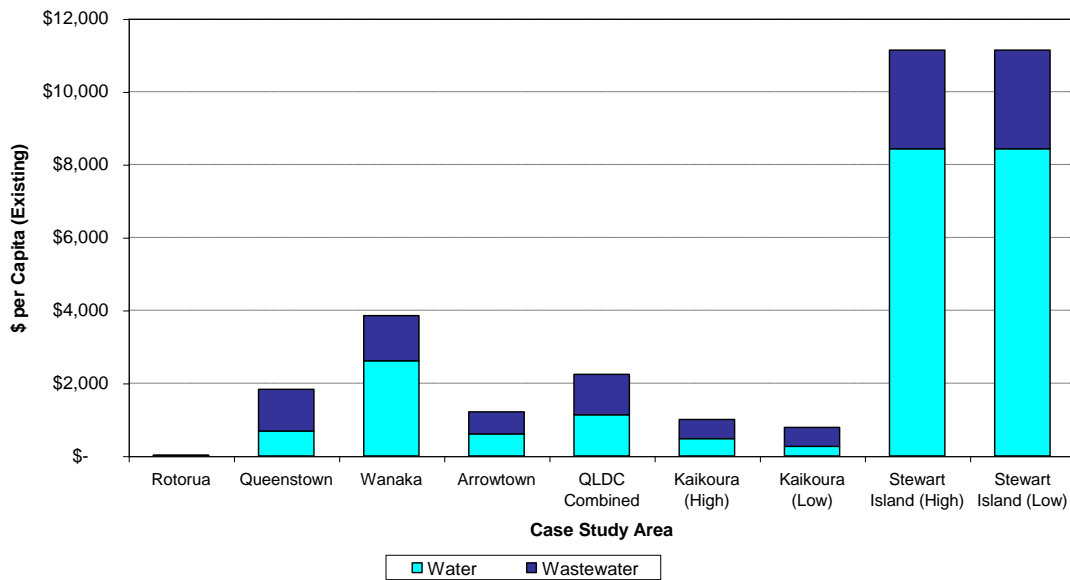
	Rotorua	Queenstown	Wanaka	Arrowtown	QLDC Combined	Kaikoura (High)	Kaikoura (Low)	Stewart Island (High)	Stewart Island (Low)
Resident Population									
2002	46790	10070	3620	1670	15360	2300	2300	370	370
End of Planning Period	51810	16450	5570	2420	24440	4600	3170	670	500
Growth	5020	6380	1950	750	9080	2300	870	300	130
Capital Expenditure (\$000)									
Water Supply	\$ 500	\$ 6,891	\$ 9,461	\$ 1,008	\$ 17,360	\$ 1,100	\$ 600	\$ 3,120	\$ 3,120
Sewerage	\$ 500	\$ 11,542	\$ 4,488	\$ 1,009	\$ 17,039	\$ 1,200	\$ 1,200	\$ 1,000	\$ 1,000
TOTAL	\$ 1,000	\$ 18,433	\$ 13,949	\$ 2,017	\$ 34,399	\$ 2,300	\$ 1,800	\$ 4,120	\$ 4,120
Capex per Capita (Existing)									
Water Supply	\$ 11	\$ 684	\$ 2,614	\$ 604	\$ 1,130	\$ 478	\$ 261	\$ 8,432	\$ 8,432
Sewerage	\$ 11	\$ 1,146	\$ 1,240	\$ 604	\$ 1,109	\$ 522	\$ 522	\$ 2,703	\$ 2,703
TOTAL	\$ 21	\$ 1,830	\$ 3,853	\$ 1,208	\$ 2,240	\$ 1,000	\$ 783	\$ 11,135	\$ 11,135
Capex per Capita (Growth)									
Water Supply	\$ 100	\$ 1,080	\$ 4,852	\$ 1,344	\$ 1,912	\$ 478	\$ 690	\$ 10,400	\$ 24,000
Sewerage	\$ 100	\$ 1,809	\$ 2,302	\$ 1,345	\$ 1,877	\$ 522	\$ 1,379	\$ 3,333	\$ 7,692
TOTAL	\$ 199	\$ 2,889	\$ 7,154	\$ 2,689	\$ 3,788	\$ 1,000	\$ 2,069	\$ 13,733	\$ 31,692
Capex per Capita (Total)									
Water Supply	\$ 10	\$ 419	\$ 1,699	\$ 417	\$ 710	\$ 239	\$ 189	\$ 4,657	\$ 6,240
Sewerage	\$ 10	\$ 702	\$ 806	\$ 417	\$ 697	\$ 261	\$ 379	\$ 1,493	\$ 2,000
TOTAL	\$ 19	\$ 1,121	\$ 2,504	\$ 833	\$ 1,407	\$ 500	\$ 568	\$ 6,149	\$ 8,240

Table 1: Comparison of Future Capital costs per Capita - Case Study Areas

Capex per Capita (Total) shows the situation where the capital expenditure cost is showed per capita between existing and the additional population. Note that the capital expenditure amounts are the total for future infrastructure and are not disaggregated to show expenditure for growth or expenditure to serve the needs of the existing population.

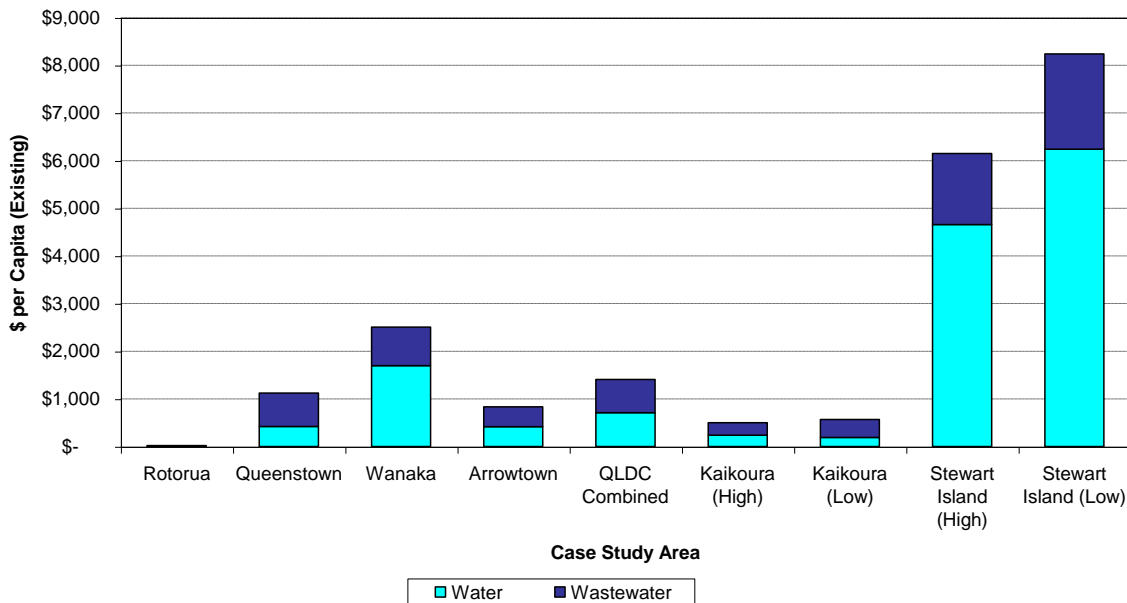
For Stewart Island, the cost per capita is substantially higher than any of the other destinations, even when the total costs are calculated against total future population (existing and growth). The costs are also high for Wanaka and very low for Rotorua - where there is substantial available capacity in the established networks and major capital expenditure for growth is not required (Figures 5.1 and 5.2). Note that the sewerage cost for Kaikoura is an estimate only, until further assessment by the Council’s consultants⁶.

Figure 5.1 : Total Capital Expenditure per Capita (Existing)



For

Figure 5.2 : Total Capital Expenditure per Capita (Existing and Growth)



⁶ Page 75

Capital Costs of Tourism - Stewart Island⁷

Stewart Island faces significant infrastructure costs, with disproportionately high costs on the local community arising from increasing tourism demand. The tourism growth arising from the National Park status granted to Rakiura means that the timing of infrastructure development and upgrade has been brought forward and the capacities required are large in comparison to the resident population. High average financial contributions (being greater than those estimated for larger urban areas) are indicated from the combination of small population size, rapid projected growth, high capital costs and a limited rating base. Due to the small size of the existing property estate, there is little scope to reduce contribution levels by assuming a higher share of costs go to existing ratepayers. Rather, the funding of the required water and sewerage infrastructure still presents a major increase in costs to the existing ratepayers because of the high costs per capita and the small size of the economy on the Island.

Stewart Island faces significant infrastructure costs. The local community is only 384 residents, and with only 90 or so small scale business operations. There is no public water supply system in place, and the cost of a water system is estimated at \$3.2 million (nearly \$8,000 per capita). Similarly, the required upgrade to the sewerage system is \$1.2 million (equivalent to \$3,000 per capita). The Island can expect substantial growth in visitor demand⁸, stimulated by its new status as a National Park, as well as an increase in the resident population to service both the Park (mainly DOC) and the visitors (accommodation, hospitality and transport activities).

The tourism growth arising from the National Park status means that the timing of infrastructure development and upgrade has been brought forward, and the required capacities of water and sewerage systems are large relative to the resident population.

The situation is further compounded on Stewart Island because a major generator of infrastructure demand is on Crown land (the National Park), so that it does not contribute to property funding.

The Southland District Council projections allow for growth in visitor nights from the current 38,000 to around 47,500 (Low) and 77,500 (High) by 2015. Over the same period, resident population projections allow for a Low of 490 by 2015 (from the current 384) and High of 650.

The implied peak daily populations would increase respectively from current 650 (400 residents plus 250 visitors) to 780 (Low) and 1,130 (High). In percentage terms, visitors would account for between 40% (Low) and 50% (High) of the net increase.

Relating to the water supply, the shares of total future demand are relevant, not just the growth, since there is no public structure there at present. This means that tourism would account for between 37% (Low) and 42% (High) of the water infrastructure costs.

The combination of projected growth, capital costs and allowance for rates contribution suggests that financial contributions would need to be around \$5,000 per dwelling equivalent in the high growth scenario, and over \$9,000 per dwelling equivalent in the low growth. The equivalent contributions for the sewerage infrastructure would need to be in the order of \$3,000 in the High future growth scenario, and \$4,500 in the Low - again depending on the shares of expenditure attributed to growth and to improved levels of service.

⁷ Page 84

⁸ Southland District Council: Rakiura National Park Community Impact Assessment, assumed that current tourism growth of 1,000 additional visitors annually. By 2015 therefore, there will be an estimated 40,000 visitors expected. With the opening of the Rakiura National Park almost 65,000 visitors are expected by 2015.

Council notes that the implied contribution levels would vary according to assumptions about the adequacy of the existing sewerage infrastructure, and the need for water supply infrastructure. However, because of the small size of the existing property estate, there is little scope to significantly reduce contribution levels by assuming a higher share of costs go to existing ratepayers. Rather, the funding of the required water and sewerage infrastructure would still represent a major increase in costs to the existing ratepayers, because of the high costs per capita, and the small size of the Stewart Island economy.

The direct consequence would be significantly higher financial contributions levels, and/or rates contributions, than for ratepayers in larger communities serviced by larger scale infrastructure. The high share of growth attributable to tourism, with consequently higher shares of demand for net additional infrastructure - both sewerage and water supply - means that the combination of significant growth and a small base economy places disproportionately high costs on the local community.

Summary⁹

Further, the key role of tourism in generating the need for infrastructure - both directly through visitor demand, and indirectly through the population and business growth to service this demand - means that Stewart Island stands out as a situation where tourism growth is placing or accelerating infrastructure costs, with direct effect on the local community and economy.

Wayne Heerdegen
SENIOR POLICY ANALYST

⁹ Page 88