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INTERNAL AFFAIRS

Te Tari Taiwhenua

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Dear David

Local Government Act 2002 Amendment Act 2012

I am writing to inform you that on 5 December 2012, the Local Government Act 2002 Amendment Act 2012 (the Act) came into force.

The Act marks the completion of phase one of the Government's Better Local Government reforms. It refocuses the purpose of local government; enables financial prudence benchmarks for local authorities; strengthens council governance provisions and streamlines council reorganisation procedures. Attached is a document that the Minister of Local Government has sent to mayors and other key stakeholders.

I would also like to update you on phase two of the reforms. The Minister of Local Government has just received the report from the Local Government Efficiency Taskforce on ways to streamline local authority planning, consultation and financial reporting requirements and practices and will release it shortly. The Expert Advisory Group looking into the efficiency of local government infrastructure provision is well into its work, and is due to report to the Minister by mid-February 2013.

A review of the use of development contributions, including consideration of the impact these have on housing affordability, is progressing. The Productivity Commission expects to release its draft report shortly on local government regulatory performance. This will inform work on a framework to guide allocation of central and local government regulatory roles.

The Minister has asked the Department to look at wider options for two-tier or dual local governance models; and to explore options for the development of a performance framework for local government.

As part of the reform programme we are also co-ordinating with other government programmes which will impact on local government. These include reforms relating to resource management, housing affordability, the Building Act and land transport management. Work on phase 2 will feed in to amendment legislation scheduled for introduction in late 2013.

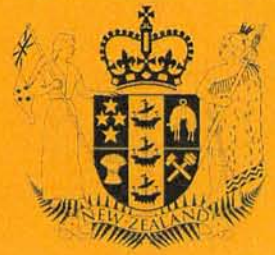
Further information on the changes is available on www.dia.govt.nz/better-local-government, and this will be updated as the reforms progress. If you have queries about the programme please contact Anthony Richards, Policy Manager on (04) 494 0644.

Yours sincerely

Colin MacDonald
Secretary for Local Government



Better Local Government Background



Local Government Act 2002 Amendment Act 2012

The Local Government Act 2002 Amendment Act 2012 is a vital first step in the Better Local Government programme, aimed at creating an efficient and effective local government system. Lifting the performance and efficiency of local government is an important plank in the Government's broader economic growth strategy. Building a more competitive and productive economy and better public services, in these tight financial times, requires both central and local government to play their part.

The Better Local Government programme changes the framework, so that local government is better positioned to create the environment for local businesses and industry to grow, and communities to flourish. This is important for all of us.

Amended purpose

First, the Act amends the purpose of local government. Local government continues to "enable democratic local decision-making and action by, and on behalf of, communities". However, references to local authorities promoting the "four well-beings" have been removed. Local authorities must now "meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses".

The Government firmly believes that a more focused mandate for local government is necessary. The intention is not to prescribe what local authorities can or cannot do, but rather to better define the scope of appropriate activities. The aim is to encourage local authorities to take a fresh look at what they are doing, consider why they are doing those things, and make efforts to ensure those activities and services match their communities' expectations of them.

The ability of local authorities and communities to agree on the specific activities and service levels provided is a fundamental feature of local government in New Zealand, and is not altered.

Financial prudence requirements

Second, the Act enables benchmarks or parameters to be set for councils' financial performance, by way of regulations. It is critical that both local and central government take a prudent financial approach to public money. The regulations are intended to encourage councils to exercise greater financial discipline, and make it easier for rate payers to assess their councils' financial health.



Work on developing the content of the regulations is continuing, in consultation with Local Government New Zealand.

Local authorities may be required by the regulations to disclose specified financial benchmarks in annual plans and long-term plans, and to report performance against benchmarks in annual reports. Auditor-General reports on long-term plans and annual reports will report on the completeness and accuracy of any disclosure.

Strengthened council governance provisions

The Act also strengthens local authority governance tools. It does this in three ways: by extending mayoral powers; clarifying that councils can set employment and remuneration policy; and by introducing a new, more responsive assistance and intervention framework. Mayoral powers have been extended to match the level of public responsibility they have for council decisions, and to support clear, strong leadership. All mayors will be empowered, from the 2013 local elections, to appoint deputy mayors, establish council committees and appoint committee chairpersons. The role of the mayor is now clearly defined as leading the council and community and, more specifically, leading the development of plans, policies and budgets for consideration by all elected members.

These changes give the mayor a greater say in the governance structures and leadership of the council, but do not change the requirement for council decisions and policies to be made by the majority of council members. Councils will have the ability to discharge a committee established by a mayor, or remove from office a chairperson who has been appointed by a mayor.

The changes in mayoral powers do not extend to regional council chairs, who are not directly elected by voters.

Councils will also have an additional tool to control costs, through being clearly able to set policies on staff numbers and remuneration. These policies will have to be reviewed every three years. Information on staff numbers and remuneration, including the number of staff employed by salary band, must be included in council annual reports.

Finally, in terms of governance, the Act introduces a new, more responsive assistance and intervention framework. New Zealand cannot afford to let some councils underperform, mismanage important decisions, or risk failure. The changes ensure government can provide the right level of assistance or intervention at the right time to meet the nature and seriousness of problems.

There is now a menu of six powers available to the Minister of Local Government to provide assistance to or intervene in struggling councils before situations become critical. This ranges from a council being required to provide information to the Minister; to a Crown Observer or Crown Manager being appointed; to (in extreme circumstances) replacement by Commissioners, or an early election called.

A threshold applies for each power. Thresholds may not need to be met if a council requests central government intervention, but decisions to intervene are at the Minister's discretion. The Minister is required to publish in the New Zealand Gazette a list of matters to be

considered when deciding whether to assist or intervene (reviewable at least once every five years). The first Gazette notice must be in place by 31 March 2013. Work on this is underway, and we expect to consult Local Government New Zealand on it by the end of 2012.

Should there be any issue with the operation, governance, or management of council-controlled organisations, any direct intervention will be with the council to which it is accountable.

Reorganisation provisions

The fourth area of reform in the Act affects the procedures for council reorganisation. The new procedures will make it easier for communities to initiate and achieve structural change, and will mean decisions about whether or not a reorganisation will go ahead are made much earlier. The new procedures apply to all types of reorganisation, including boundary alterations and the transfer of statutory obligations from one council to another.

Under the new procedures, anyone will be able to apply for a reorganisation, so long as they can demonstrate there is community support, identify the rationale for change, and explain how the proposed approach promotes good local government. The Local Government Commission will need to be satisfied that there is community support in each territorial authority before proceeding with an application.

The new procedures mean the Commission's role and responsibilities will change. For example, the Commission will invite alternative applications and identify the practical options available. An important part of the Commission's role will be to work with communities to decide which of the options best promotes good local government in a particular area. This will involve considering whether the available options achieve the purpose of local government and aid improved economic performance (including simplifying planning processes; improving productivity; and creating efficiencies and cost savings). The Commission's preferred option will then be turned into a draft proposal and issued for consultation with councils and communities.

A petition signed by 10 per cent of affected electors in any territorial authority district can demand a poll on the final reorganisation proposal. There will be 60 working days to prepare a petition. If a poll occurs, the result will be determined across the whole area affected by the proposal.

The Act now includes clearer, more detailed procedures about the transition arrangements that will apply if a final reorganisation proposal goes ahead. For example, transition bodies will be set up to work with the Commission on the reorganisation scheme, and to prepare for implementation. These bodies will include people from the affected councils, ensuring there is local input into the schemes.

Clarification of practices of Remuneration Authority

The Remuneration Authority can now set remuneration for more categories of people and require councils to publish their rules for reimbursing expenses. This clarifies the legislative authority for the current practices of the Remuneration Authority.