

## **MACKENZIE DISTRICT COUNCIL**

### **MINUTES OF A MEETING OF THE MACKENZIE DISTRICT COUNCIL HELD IN THE COUNCIL CHAMBERS, FAIRLIE, ON TUESDAY 10 JULY 2012 AT 9.30 AM**

#### **PRESENT:**

Claire Barlow (Mayor)  
Crs John Bishop  
Peter Maxwell  
Annette Money  
Graeme Page  
Graham Smith  
Evan Williams

#### **IN ATTENDANCE:**

Glen Innes (Chief Executive Officer)  
Garth Nixon (Community Facilities Manager) for part of the meeting  
Bernie Haar (Asset Manager) for part of the meeting  
Carl Mackay (Solid Waste Manager) for part of the meeting  
Rosemary Moran Committee Clerk)

#### **I      OPENING:**

The Mayor welcomed everyone to the meeting.

#### **III     DECLARATIONS OF INTEREST:**

There were no Declarations of Interest.

#### **V       MAYORAL REPORT:**

This was the report of Mayoral activities to 10 July 2012.

Resolved that the report be received.

**Graham Smith /John Bishop**

#### **VI     REPORTS REQUIRING COUNCIL DECISION:**

##### **1.   CHIEF EXECUTIVE OFFICER'S GENERAL ACTIVITIES:**

This report from the Chief Executive Officer referred to Council,  
Committee and Board Meetings and Other Meetings and Activities and

Staffing, Building Control Authority, Long Term Plan, Tourism Trust, Alps2Ocean Cycle Trail and Roothing Committee.

Resolved that the report be received.

**Evan Williams /Annette Money**

### **Long Term Plan 2012-2022**

Crs Page and Smith said they were not satisfied that the budgets in the draft Long Term Plan for 2012-2022 (LTP), particularly in relation to the funding of roading, were acceptable.

The Chief Executive Officer referred to the on-going process of adopting the LTP and noted that at the meeting of 12 June 2012, following the hearing of public submissions, the Council had resolved to make a number of amendments to the document. The amended document was currently being audited. He advised that if the Council wished to make further amendments to the draft LTP another audit could be required.

Resolved that the latest version of the draft Long Term Plan be provided to Councillors for consideration at a special meeting to be held on Tuesday 24 July 2012 at 9.30 am.

**Annette Money/Graeme Page**

## **XIII ADJOURNMENT:**

The meeting was adjourned at 10.30 am for morning tea and reconvened at 10.55 am.

## **VI REPORTS REQUIRING COUNCIL DECISION:**

### **1. CHIEF EXECUTIVE OFFICER'S GENERAL ACTIVITIES (Continued):**

Resolved that a Roothing Committee be established with the following membership:

- The Mayor
- One rural-based councillor
- One representative each from the three community boards
- One representative each from the rural areas of the Pukaki Ward and the Opuha Ward.

**Claire Barlow/Annette Money**

**XI VISITORS - LOCAL GOVERNMENT REFORM – BRIEFING FOR ELECTED MEMBERS:**

The Mayor welcomed Owen Hunter, Chairman of the Fairlie Community Board and Murray Cox, Chairman of the Tekapo Community Board.

An apology was received from Peter Bell, the Chairman of the Twizel Community Board.

The Chief Executive Officer led the Council through a PowerPoint presentation on the Local Government Act 2002 Amendment Bill 2012 and the Local Government New Zealand and Society of Local Government Managers discussion document on the Amendment Bill.

A copy of the briefing is attached to this record as Appendix A.

Resolved that authority be delegated to the Mayor (following consultation with the elected members) to make a submission to Local Government New Zealand on the Local Government Act 2002 Amendment Bill 2012.

**Graham Smith/Graeme Page**

**VI REPORTS REQUIRING COUNCIL DECISION (Continued):**

**2. CORPORATE COMMUNICATIONS:**

This report from the Chief Executive Officer sought agreement to establish a budget for corporate communications, including access to professional advice when required.

Resolved that the report be received.

**Annette Money/Evan Williams**

Resolved that the Mayor be supported with communications consultancy as required, to be funded from the Governance budget.

**Graham Smith/Annette Money**

**XIII ADJOURNMENT:**

The meeting was adjourned at 12.30 pm for lunch and reconvened at 1.15 pm

## **XI VISITOR:**

The Mayor welcomed Simon Williamson, Chairman of the High Country Medical Trust.

The Community Facilities Manager joined the meeting.

## **VI REPORTS REQUIRING COUNCIL DECISION (Continued):**

### **6. MEDICAL FACILITIES FUNDING:**

This report from the Community Facilities Manager sought to clarify Council policy in relation to the funding of medical facilities in the District. It was accompanied by the 2012 proposed Policy for Contributions to Medical Centres, the 2011 Rental Policy for Medical Facilities and the 2010 resolutions regarding Medical Centre Housing Funds.

Resolved that the report be received.

**Annette Money/Peter Maxwell**

#### **Twizel Medical Centre**

Simon Williamson provided an overview of progress towards the development of a new medical centre for Twizel.

Mr Williamson's comments included the following:

- The High Country Medical Trust (HCMT) would be the new owner of medical centre buildings in Twizel.
- High Country Health Ltd (HCH) would operate the business.
- The medical centre would include an attached residence for doctors which would leave the existing doctors' residence surplus to requirements.
- The HCMT wanted to acquire the shares in HCH currently owned by the Mackenzie Medical Trust.
- The HCMT had identified land on the Ben Ohau Golf Course as the preferred site for the new medical centre and the Golf Club had said it was willing to make the land available.
- HCMT wanted support from Council, eg the land and funds from the sale of the existing buildings.
- HCMT was proposing to spend about \$1m on the new facilities.
- HCMT considered it made sense that it should own the shares in HCH if it was going to build a medical centre.
- Ratepayers' investment in the building could be protected by a written guarantee.
- The HCMT trustees were Simon Williamson, Joy Patterson, Rosalie Smith, Priscilla Cameron, Dave Pullen and Bruce White.

- HCH board members were Simon Williamson, Joy Patterson, Rosalie Smith, Priscilla Cameron, Dave Hawdon and Graeme Bond.
- It was not envisaged that the medical practice would be sold in the future.
- The project would proceed with or without Council support.

Mr Williamson said that time was of the essence in progressing the project as the existing medical facilities in Twizel were stretched. He said the HCMT had access to funding links, as well as the assurance of significant donations. It was ready to begin; however it was the Trust's view that progress hinged on obtaining the shares.

The Mayor explained that the shares were owned by the MMT, not the Council.

She said the Council would consider a formal request for support from the HCMT and that the request should be accompanied by the Trust Deed and business plan.

Mr Williamson left the meeting at 1.45 pm.

The Council discussed options for providing support for the development of new medical facilities in Twizel.

Cr Bishop said the HCMT did not want the Council to own the facility, nor did it want to have to rent from the Council. The Trust wanted to start afresh; it didn't want Council involvement.

Cr Money suggested that might not be the view of the community.

The Chief Executive Officer referred to the need to protect Council's interests in the long term. He suggested the options included:

- To decline to be involved in the project – not an ideal option in view of general acceptance that new medical facilities were needed in Twizel.
- To provide a ground lease – the building and its maintenance remaining the responsibility of the HCMT, (an arrangement similar to Council's arrangement with the Fairlie Plunket Society).
- To fund the building, in conjunction with other contributors, for lease to the operators of the medical practice at a discounted rate, (an arrangement similar to Council's recent involvement with the Fairlie Medical Centre upgrade and the arrangement with the owners of the Fairlie Medical Practice).

The Chief Executive Officer cautioned that, while there was considerable enthusiasm for the project currently, there was no certainty of what the situation might be in ten or twenty year's time; however it was probable that a local authority would still be operating.

The Council considered the draft policy for funding of medical facilities, which it was noted would be a District-wide policy.

Resolved a decision on adopting a policy for funding medical facilities in the District be deferred pending the availability of more information on the ground lease option.

**Annette Money/Graham Smith**

Resolved that the proceeds from the sale of any medical facilities be held in a special purpose reserve.

**Evan Williams /Annette Money**

#### **IV     BEREAVEMENTS:**

The Mayor referred to the recent deaths of Harry Gibb, John Graham, Allan Innes and Pat Clarke Doreen is wife.

A motion of sympathy was passed and the Chief Executive Officer was directed to pass this on to those concerned.

#### **VI     REPORTS REQUIRING COUNCIL DECISION (continued):**

##### **4.     SMOKE FREE PLAYGROUNDS AND SPORTS FIELDS POLICY:**

This report from the Community Facilities Manager requested the consideration of a new Smoke Free Policy for Playgrounds and Sports Fields.

Resolved:

1. That the report be received.

**AM Graham Smith**

2. That the Council adopts the Smoke Free Policy for Playgrounds and Sports Fields as follows:

##### ***SMOKEFREE PLAYGROUNDS AND SPORTS FIELDS POLICY 2012***

##### ***Policy Objective:***

*Mackenzie District Council believes the children and young people of our District have a right to be able to enjoy playground and sports facilities provided by Council in a smoke free environment.*

*All Council-owned facilities listed below are smoke-free areas.*

*The community will be advised through appropriate signage and on-going communication, as deemed necessary by Council.*

*Areas covered by this policy are :*

- *Fairlie Domain and Play Area*
- *Fairlie Village Green*
- *Strathconan Park*
- *Lake Tekapo Domain Playground (Camping Ground)*
- *Scott Street Playground Lake Tekapo*
- *Lake Tekapo Community Hall Courts*
- *Tekapo Playground near Village Centre*
- *Twizel Playground, Market Place*
- *Twizel Skate Park*
- *Twizel Basketball Courts*
- *Twizel Netball Courts*
- *Lake Ruataniwha Swings,*

and installs signage as appropriate.

**Graham Smith /Graeme Page**

#### **5. WAITAKI LAKES AND RIVERS TREE MANAGEMENT STRATEGY**

This report from the Community Facilities Manager referred to the Waitaki Lakes and Rivers Tree Management Strategy and provided information about the Council's involvement in the management of trees in the following areas in the District:

- The Mackenzie side of Lake Ohau
- The true left of the Ohau River to Lake Ruataniwha
- The northern and western shores of Lake Ruataniwha, and
- The Haldon Arm camping area.

Resolved that the report be received.

**Graham Smith/Evan Williams**

Resolved that the Council supports the Waitaki Lakes and Rivers Tree Management Strategy through continuation of the Twizel Community Board's programme at Lake Ruataniwha.

**Evan Williams /Graeme Page**

## **VII INFORMATION REPORTS:**

### **1. COMMON SEAL AND AUTHORISED SIGNATURES REGISTER:**

This report from the Committee Clerk advised of documents listed on the Common Seal and Authorised Signatures Register from 25 May 2012 until 5 July 2012.

Resolved:

1. That the report be received.
2. That the sealing of document numbers 741 to 744 be endorsed.

**Annette Money/Graham Smith**

3 WASTE MANAGEMENT AND MINIMISATION PLAN 2012:

This report from the Chief Executive Officer was accompanied by the Waste Management and Minimisation Plan 2012 and Summary.

Resolved that the report be received.

**Peter Maxwell Graham Smith**

Resolved that in accordance with s83 of the Local Government Act 2002 (special consultative procedure) the Waste Management and Minimisation Plan 2012 be adopted for public consultation.

**Annette Money/Graeme Page**

Resolved that the following summary of the Waste Management and Minimisation Plan 2012 be adopted for public consultation:

*The Waste Minimisation Act 2008 requires Council to prepare a new Waste Minimisation and Management Plan (WMMP) by 1 July 2012. As a precursor to the plan, a waste assessment was conducted, which identified what happens with waste currently and projected how we are going to manage waste in the future. The WMMP was drafted with regard to the waste assessment and the Council LTP.*

*The WMMP and waste assessment must comply with the Waste Minimisation Act 2008 and the New Zealand Waste Strategy.*

***Draft Waste Minimisation and Management Plan (WMMP)***

*The WMMP complies with the legislative requirements for a WMMP as follows:*

- *Consider in descending order of importance the following methods: reduction, reuse, recycling, recovery, treatment and disposal.*
- *Ensure waste collection is not a public nuisance.*
- *Have regard to the New Zealand Waste Strategy and the most recent waste assessment.*
- *Use the special consultative procedure for the plan and also notifying the waste assessment.*

***WMMP Summary***

*The Mackenzie District Council's vision for waste management and minimisation is:*

***The Mackenzie District minimises its waste and disposes of it with the least effect on the environment.***



*The plan recognises that the goal of Zero Waste to landfill by 2015 adopted by Council in 1999 is not achievable in the term of this plan (6 years) and concurrent LTP due to the rising cost and complexity of diverting more difficult materials from landfill. The goal for the next 6 years is to maintain at least the status quo aiming to increase the efficiency of the current services and to implement some new waste minimisation activity with waste levy funding if appropriate.*

*Over the life of this plan the Council intends to continue with the current service provided by ESL and they will continue to manage the RRP's at the same levels of service as is currently enjoyed.*

*Council will be reviewing how it manages green waste.*

*LTP performance measures and operational performance have been reviewed and new targets set.*

***Identification of Relevant Legislation, Council Policy and Plans***

*New Zealand Waste Strategy 2010*

*Waste Minimisation Act 2008*

*Solid Waste Management Plan 2009*

*2012 Waste Assessment*

**Annette Money/Graeme Page**

**2. ALPS2OCEAN JOINT COMMITTEE:**

The Minutes of the Meeting of the Alps2Ocean Joint Committee held on 12 April 2012 and Summary Reports for May and June 2012 had been circulated for the information of the Council.

Resolved that the report be received.

**Annette Money/Graham Smith**

**VIII COMMUNITY BOARDS:**

This report from the Chief Executive Officer was accompanied by the Minutes of the meetings of the Fairlie Community Board held on 13 and 27 June 2012 and the Twizel and Tekapo Community Boards held on 25 June 2012.

Resolved:

1. That the report be received.

## TWIZEL

### **2. Trees – 211 Mackenzie Drive Twizel:**

That the Council notes that the Twizel Community Board has approved the removal of the identified trees from the greenway next to Rob and Sue Young's property at 211 Mackenzie Drive, Twizel, at Council's cost.

### **3. Advertising Kiosks:**

That the Council notes that:

- the remaining advertising kiosks in Market Place are to be removed by September 2012
- Twizel businesses are to be offered the opportunity to promote an appropriate solution for local advertising by September 2012, for the approval by the Community Board.

### **4. Cancer Society Letter:**

- That the Council notes that the Community Board endorsed its earlier resolutions regarding Cancer Society's proposal to erect shade sails in the playground, and
- That the Council notes that the Cancer Society is to be advised that the donation of shade trees for the skate park area, in consultation with the Community Facilities Manager, would be acceptable to the Community Board.

### **5. Budget Update:**

That the Council endorses the Twizel Community Board's recommendation that it adopt the Twizel Community Budgets for 2012/2013, with the amendment that the projects budget be reduced by \$20,000.

## TEKAPO

### **6. Budget Update**

That the Council endorses the Tekapo Community Board's recommendation that the budgets for the Lake Tekapo Community as previously adopted for 2012/2013 be confirmed.

## FAIRLIE

### **7. Alternative Water Source**

That the Council notes that information about the potential alternative source for the Fairlie Water Supply on the Waters' property, along with photographs and GPS details (to avoid any confusion about the location of the source) is to be made available for the next Fairlie Community Board meeting on 25 July 2012.

### **8. Rates for 2012/2013**

That the Council endorses the Fairlie Community Board's recommendation to it to adopt the budgets for the Fairlie Community as presented, with the following amendments:

- decrease township budgets from \$100,000 to \$50,000

- remove \$100,000 for each year from Year 2
- increase UAGC to 15%,  
to achieve an increase of 5.05% for the 2012/2013 year.

**Evan Williams /Annette Money**

Resolved that a letter of appreciation be sent to the Fairlie Lions Club for their support of the construction of the car ports at the Mackenzie Retirement Villas.

**Graeme Page/Graham Smith**

**XI COMMITTEES:**

Resolved that Minutes of the meeting of the Finance Committee held on 26 June 2012, including such parts as were taken with the Public Excluded, be received.

**Graeme Page /Evan Williams**

**XII CONFIRMATION OF MINUTES:**

Resolved that the minutes of the meetings of the Mackenzie District Council held on 29 May 2012, 12 and 26 June 2012 be confirmed and adopted as the correct records of the meetings.

**Annette Money/Graham Smith**

**THERE BEING NO FURTHER BUSINESS,  
THE MAYOR DECLARED THE MEETING CLOSED AT 2.50 PM**

**MAYOR:** \_\_\_\_\_

**DATE:** \_\_\_\_\_



# Better Local Government

An analysis of the  
Government proposals

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# In this presentation

- **Outline the Eight Point Plan**
- **Examine the detail of the Bill**
- **Consider implications for us**
- **Review sector response to date**

# Local Government Reform

In March, Government announced changes:

## **AIMS :**

- To clarify role of Local Government
- Provide stronger governance
- Improved efficiency
- More responsible financial management

# Eight Initiatives

## Four this year, four next

### **Legislation introduced to:**

- ◉ Refocus purpose of local government
- ◉ Introduce fiscal responsibility requirements
- ◉ Strengthen governance requirements
- ◉ Streamline reorganisation proposals

# Next Stage:

- Appoint a local government efficiency taskforce
- Develop a framework for central/local government regulation
- Investigate efficiency of local government infrastructure provision
- Review the use of development contributions

Further bill in 2013.



# Purpose of the Act

- The purpose of the Act provides for “local authorities to play a broad role in promoting the social, economic, environmental and cultural wellbeing of their communities, taking a sustainable development approach”.
- Changed by the Bill to:  
...play a broad role in meeting the current and future needs of their communities for good quality local infrastructure, local public services and performance of regulatory functions.

# One of Local Government's Purposes is changed:

**From:** To promote the social, economic, environmental and cultural well-being of communities, in the present and the future.

**To:** To 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.

# **Fiscal Responsibility Requirements**

**These will be set by regulation. Consultation with LGNZ is provided for. Allows Minister to set parameters or benchmarks for assessing whether a local authority is “prudently managing” its revenue, expenses, assets, liabilities, investments and genuine financial dealings.**

# Fiscal Responsibility Requirements Continued...

Broadly worded.

Examples are worrying:

- a) Eg debt should not exceed a fixed sum per resident
- b) Expenditure generally should not increase by more than the rate of population growth multiplied by the rate of increase of the Consumers Price Index.

May have different rules for different types of local authority.

- Internal Affairs material links breaches of these caps to the new Ministerial powers of intervention.

# Employment & Remuneration

- Council's may adopt policies relating to employee staffing levels and the remuneration of employees.
- New reporting requirements for Annual Report.
- Report on number of full time employees, number of full time equivalents, number of employees receiving less than \$60,000 and in \$20,000 bands above then.

# Mayoral Powers

- Applies at next election.
- New powers to appoint deputy mayor, establish committees, appoint committee chairs, propose plans and budgets.
- Can be exercised at the discretion of the incumbent.
- No resourcing for this (compared with Auckland Council).

# Ministerial Powers of Assistance and Intervention

- Triggered by a problem/or a potential problem. Loosely defined but includes a breach of the financial parameters mentioned earlier. May result from a state of emergency.
- Three levels of assistance.
- Three levels of ministerial intervention.
- Assistance – provide Minister with information, Minister may appoint a Crown Reviewer or review team, Minister may appoint a Crown Observer.



# Ministerial Intervention

- Appoint a Crown Manager
- Appoint a Commissioner or Commissioners
- Call a Council election early

# Local Government Commission

- Streamlining proposed
- Quite significant changes
- Easier to get an application in front of the Commission (can be made by any body or group with an interest in the governance of the area).
- Commission has to judge whether application has significant community support and if so, whether it will promote good local government.

# Local Government Commission Continued...

- Commission develops and consults on draft proposal.
- Final proposal can change as a result of submissions
- Poll on final scheme only held if 10% electors demand one
- Poll is across whole of proposed new area
- Re-organisation scheme developed

# Simpson Grierson Comments

- Amalgamations before next elections unlikely
- Assessment criteria favour amalgamation and unitary authorities
- Commission must consider – efficiencies and cost savings, productivity improvements, simplified planning processes
- Prohibition on local authorities advertising during polling period (new)
- Auckland model not transferrable – limits on what can be achieved through reorganisation.

# Second Phase of Change

- ◉ Local Government Efficiency Taskforce
- ◉ Review planning, consultation and reporting requirements of the Act.
- ◉ Report back by 31 October 2012.
- ◉ Regulatory Powers
- ◉ Productivity Commission tasked with developing and framework for deciding which regulatory rates should be undertaken by local government and which by central government. Work under way. Discussion paper completed. Report by April 2013.

# Second Phase continued

- Expert advisory group to review efficient provision of local government infrastructure.
- Terms of reference to be agreed with LGNZ. Report by 2013.
- Development contributions
- Auditor-General reviewing these as part of normal work plan. Changes may occur from her report later this year. Any policy changes included in Local Government Reform Bill 2013.

# Impacts for Mackenzie

- May not score well on fiscal impacts.
- No debt but high rates/resident
- Effects of water upgrading will be significant
- Some vulnerability to reform proposals
  - Groups can put a proposal in front of Commission
  - Difficult to trigger a poll request
  - Difficult to vote down any poll if one is held.
  - Amount of representation must decline with any changed organisational arrangement.

BUT – unitary arrangements unlikely in Canterbury. No “takeover” appetite expressed by our neighbours.

# Sector Reaction

1. Little evidence to support motivations for change
2. Regulatory impact statement revealing in its disclaimers
3. No consultation with sector
4. Opposed to change of purpose.
5. Opposed to Government imposed benchmarks – prefer self regulation
6. Concerned over potential misuse of ministerial powers of intervention for political ends
7. Reservations about streamlined Commission powers and rights of Minister to direct an arms length body
8. Mayoral powers not commented on
9. Reservations about employment provisions and disclosures
10. Concern on electoral matters as changes to the +/-10% representation rules have stalled



# Feedback

- Submissions close 26 July 2012
- Input into LGNZ /SOLGM paper due 13 July 2012

# **The Local Government Act 2002 Amendment Bill 2012**

## ***A Local Government New Zealand and Society of Local Government Managers discussion document***

***Local Government  
New Zealand***  
*te pūtahī matakōkiri*



**SOLGM**  
NEW ZEALAND SOCIETY OF  
LOCAL GOVERNMENT MANAGERS

## Note to readers

This document is the first step toward preparing, what we intend will be a joint submission from *Local Government New Zealand* (LGNZ) and the Society of Local Government Managers (SOLGM) on the Local Government Act 2002 Amendment Bill 2012.

It is released for discussion and debate in the local government sector including at Better Local Government Summits and elsewhere, and to help local authorities with their own submissions.

Throughout the document there are a series of discussion questions. In some instances, the questions ask for feedback on a set of proposed recommendations. On other issues – particularly reorganisation and intervention, the questions seek responses on the policy direction and issues on this Bill. Of course, we welcome feedback on any aspects of the Bill you think we have missed.

This discussion document is a working draft. Proposals in this document are not adopted LGNZ or SOLGM policy, and may never be.

Comments on this draft should be sent to:

Raymond Horan  
Senior Advisor, Good Practice and Policy  
SOLGM  
email [rhoran@solgm.org.nz](mailto:rhoran@solgm.org.nz)  
fax 04 978-1285

Comments will close at 4.30pm on Friday 13 July. As submissions on the Bill itself are due on 26 July, late comments on this draft submission cannot be accepted.

This discussion document specifically traverses only the issues in the above-named Bill. The scope for the Select Committee to traverse issues outside of those flagged in the Bill is severely limited by Parliamentary Standing Orders. So for example, we have not commented on issues like non-rateable land, or long-term plan disclosures in this submission. We have commented on local electoral issues, but only because there is a Local Electoral Amendment Bill in front of Parliament.

We trust that this aids with your consideration of the issues.

## **Part A: Some General Comments**

### **Who Are We?**

LGNZ is the national voice of local government. It is the membership organisation of all 78 New Zealand councils. LGNZ's goals are:

- to secure national policies and legislation that support effective local governance. In this role LGNZ lobbies and advocates on behalf of member councils and works in partnership with central government to achieve these objectives
- to provide support for and services to local authorities to enhance effective local governance. In doing this, LGNZ develops a range of services to support member councils, provides governance support and training, and champions best practice and continuous improvement across the sector.

SOLGM represents 560 local government managers (including chief executives, and other managers with significant management, policy or strategic development responsibilities). Our vision is *"to be the leading influence for local government managers and staff to advance the sustainability of our communities"*.

SOLGM represents and supports its members, local government managers and staff through professional development and networking opportunities, membership support services, good practice resources and advocacy work.

### **Some General Comments on the Evidence Base**

LGNZ and SOLGM read the regulatory impact statement (RIS) that accompanied this Bill with great interest.

The scale of change signalled in this Bill and in the other parts of the Better Local Government programme have the potential to create the most significant change to the sector since the amalgamations and accountability review of 1989. We would have expected that the proposals would be matched by a robust assessment of **all** of the available evidence.

The impact statement states:

"There is limited evidence to inform the development of these proposals, and the timeframes within which the proposals have been developed have restricted the ability to assess multiple options. As a result, the problem analysis and option assessments of specific proposals rely on assumptions that are not, or are only partially tested.<sup>1</sup>"

and

"The short timeframe for formatting and drafting the legislation creates some risk that interventions could be incorrectly aligned, and/or require subsequent amendment to address unforeseen circumstances.<sup>2</sup>"

Neither organisation has come across statements of this nature in a RIS before and raise questions about the quality of the policy analysis on which this Bill has been developed.

In the appropriate places, we challenge some of the evidence, analysis and assumptions that underpin some of the proposals in this Bill. For the moment suffice to say:

- there is little or no real evidence to suggest that the sector is **not** focussed on so-called "core" services." Three different reports concluded that the sector has not significantly expanded the scope of its activities since 2002. Analysis of the 2006 and 2009 long-term plans (LTPs) shows between 70 and 75 percent of the capital programme is on roads, the three waters and flood protection
- the RIS discusses the movements in the rates component of the Consumer Price Index (CPI) but does not account for differences in the way that rates are treated from other components of the CPI
- the RIS shows no evidence of having considered why local authority costs have increased – in particular movements in key inputs such as energy, steel and the like are not considered at all
- the figures on debt are taken from an information source (2009-19 LTPs) that are three years out of date, are about to be superseded, and show that the sector as a whole is planning to borrow less than the 2009 LTPs indicate
- the RIS concludes that the requirements to prepare a financial strategy and pre-election report and the standardisation of financial information does not provide an effective control on rates increases. These requirements have only just been implemented. We therefore cannot see any reasonable basis for the Government concluding that changes do not work
- there is an implicit assumption that the lower the level of debt and rates increase, the more prudent these are likely to be. However there are some local authorities where their difficulties arose because they have held rates at an artificially low level. This has resulted in asset deterioration or under-investment and resulted in major increases when investment has to be made.

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<sup>1</sup> Department of Internal Affairs (2012), Regulatory Impact Statement - Better Local Government, page 1.

<sup>2</sup> Department of Internal Affairs (2012), page 1

## **Other Significant Changes**

Other significant changes proposed in this Bill include:

- the proposal to remove a mandatory poll on reorganisation proposals
- the powers to intervene in a local authority are predicated on the existence, or potential existence of a "problem". This power is widely defined arguably allowing a Minister to intervene in many circumstances..
- the proposal to set "prudential benchmarks" on local authority rates and debt may result in de facto "caps" being applied to local authority expenditure. Presently local government is struggling with a legacy of past decisions to hold rates at unsustainably low levels. If New Zealand is to remain a first world nation, with first world standard services, it must also recognise that the costs of providing those services are higher than normal household costs. The Government itself has recognised (through its National Infrastructure Plan) that in New Zealand for many years there has been a severe under-investment in infrastructure. Benchmarks of the kind envisaged by the Government may make the position worse.

These changes are significant enough to warrant a wide ranging debate within the sector.

There was no consultation on the formulation of the Better Local Government Bill. The lack of an evidence base as outlined in the Regulatory Impact Statement is also problematic.

## Part B: Specific Issues

### The Purpose of Local Government

The Bill makes changes to section 3 and section 10 of the Act to “refocus the purpose of local government” with some consequential amendments elsewhere in the Act – mostly to remove the term “well-being”.

The 19 March announcements and the RIS that accompanies this Bill claim that the current purpose of local government, and specifically the reference to social, economic, environmental and cultural well-being, has created confusion about the proper roles of local government and has resulted in councils undertaking a new range of activities that have caused rates to increase at unprecedented levels.

LGNZ and SOLGM have serious concerns about the evidence base that underpins this aspect of the Bill. There is no real evidence that the sector as a whole are undertaking functions that they were not undertaking prior to 2002. In fact we can cite three reviews that found the exact opposite. Specifically:

- “No evidence to date has been produced to suggest that local government as a whole is undertaking a wider group of functions than it had prior to 2003. In cases where councils have taken on additional responsibilities these have proved to be quite small in scale and operational in nature<sup>3</sup>”
- “The panel does not consider that this empowerment (the LGA 2002) has been a significant driver of increased expenditures. First, the previous legislation contained similar powers, such as the power to promote community welfare. And local government has long been involved in social activities such as public rental housing and construction of major cultural sporting facilities and in commercial operations such as parking buildings and other trading undertakings. There is little that local government is now doing that it has not previously been doing<sup>4</sup>”
- “We conclude that the new Act, and particularly the conferring of full capacity, rights and powers on local authorities, has not led to a proliferation of new activities being undertaken by councils<sup>5</sup>”.

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<sup>3</sup> Joint Central/Local Government Funding Project Team (2006), *Local Government Funding Issues – Report of the Joint Officials Group*, page 18. The report subsequently noted that additional spending, where it has occurred typically went to community groups, and as such would have been empowered by section 548 of the Local Government Act 1974.

<sup>4</sup> Independent Inquiry into Local Government Rates (2007), *Funding Local Government*, page 78

<sup>5</sup> Local Government Commission (2008), Review of the Local Government Act 2002 and the Local Electoral Act 2001 page 3.

The Government's announcements and the RIS that accompany this Bill cite several alleged examples of non-core spending. Of these:

- the comment about NCEA pass rates appears to be a reference to the recently adopted Auckland spatial plan. Central government designed the spatial plan mechanism with the intent that it be a comprehensive focussed document that drew together central and local government investment intentions and agreed on joint priorities. Auckland Council has no intention to engage in front-line delivery of education services as a result of this plan
- reference to a council that is setting targets on greenhouse gas emissions illustrates a council that is exercising local leadership over an environmental issue. Local decision making for their community
- expenditure on the V8s has also been cited as an example of a poor spending decision. However, there are many more examples of successful promotional investments. Local and central government have promoted sporting and cultural events for many years (including for example, the 2000 and 2003 Americas Cup, the 2011 Rugby World Cup, World of Wearable Art, the Festival of the Arts).

The big drivers of increasing local government costs over the past 15 years has been the cost of providing network infrastructure in an environment where resources are becoming increasingly scarce.

The usefulness of references to wellbeing in the Act, are that they provide a statutory signal to local authorities and the community, that service provision is focussed on achieving community wellbeing. All of the best examples of consultation focus the community's attention on the value that they get from the proposed spending. Value is which is determined by the cost of something (i.e. the rates payable) and the benefit the community perceives (or the impact it has on their wellbeing).

In summary the Government has produced little to no evidence that the present purpose statement in the statute is problematic. No case for change exists.

### **Recommendation: Purpose of Local Government**

**LGNZ and SOLGM are proposing that the following recommendation be included in the submission:**

**"That the proposed amendment to section 3, section 10 and consequential deletions of the term 'well-being' be removed from the Bill. In other words that the purpose of local government is left 'as is'**

**Do you agree?**



## **Fiscal Responsibility**

The proposals in this Bill empower the Government to set what are described as “benchmarks for assessing councils’ performance in respect of income, expenditure and prudent debt levels.” The intent is that these benchmarks will form a type of early warning system for local authorities, and also for central government (failure to manage prudently is explicitly mentioned in the definition of a “problem”). These requirements will be set by regulation.

## **Movements in Rates and Debt – What’s the Evidence?**

The Government’s public commentary about the Bill has been accompanied with a commentary on movements in rates and debt and the allegation that rates and debt are “increasing too fast”. When read in conjunction with the comment in the 19 March announcement that the benchmarks are “soft caps”, the public will expect that the benchmarks are things that local authorities cannot (or at least should not) move beyond.

### **Rates**

The evidence accompanying this Bill purports to show that rates are the fastest growing component of the CPI. While the percentage increases cited are broadly correct, comparing these without any context is misleading.

Most of the measures of prices of goods and services in the CPI are “quality-controlled”, as Statistics New Zealand goes through a rigorous process to ensure that only the movements in prices of goods of the same quantity and quality are measured.

The rates component of the CPI measure both an increase in the rates and an increase in the level of service the user receives. In short, the CPI overstates increases in rates vis-a-vis the other elements of the CPI.

We also need to mention that the CPI measures movements in prices of a basket of goods and services that households consume, and that the basket of goods that local authorities consume is considerably different. The price of the two baskets of goods need not move in tandem – and while the two did move by about the same rate up until around 1998, that was very much a statistical coincidence.

In 2009, LGNZ commissioned BERL to construct a Local Government Cost Index (LGCI) from various local government related statistical indices prepared by Statistics New Zealand (mostly from indices that support their Labour Cost Index, the Producers Price Index<sup>6</sup>). BERL found that this LGCI had increased by 43 percent over the period 1999 to 2009.

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<sup>6</sup> Note that these are input prices – that is to say that they measure the cost of goods and services that local authorities consume in producing their own goods and services.

There are a number of drivers of cost in local government:

- changing government policy including:
  - 
  - increasing standards for delivery of some services (drinking water standards is a topical example.)
  - increasing the range and complexity of functions local authorities undertake - in the last ten years local authorities have been given responsibilities such as regulation of the sex industry, regulating the location and number of gaming venues and others.
  - changing policy on government funding – for example, the reprioritisation of transport funding to the so-called “roads of national significance” has substantially reduced the level of funding available for the construction and maintenance of local roads
- movements in international energy prices have both first and second order impact on local authority costs.

Each year BERL produce rolling forecasts of movements in key local government indices<sup>7</sup> and a forecasted movement in the overall LGCI over the next ten years. The most recent forecasts (October 2011) found that the overall LGCI would increase 44 percent – with the index for operating component increasing 38 percent and the capital 50 percent. BERL forecast the CPI will increase by around 29 percent in the same period.

Key drivers of the movements in the LGCI include energy costs (65 percent), pipelines (61 percent), and earthmoving (46 percent). Significantly staffing costs are forecast to increase by the level of the CPI (i.e 29 percent) and that these are only slightly higher than the forecast increase in private sector wages (27.5 percent).

The prices for many of the local government “supplies” are determined in international commodity markets (oil, bitumen, steel, concrete, plastics and goods that are produced using these as inputs such as pipelines<sup>8</sup>). As with the rest of New Zealand, local government is a price-taker for many of these commodities. Local authorities only ability to exert any real control over the price of the goods and services they consume comes from:

- competitively tendering capital, maintenance and renewal work<sup>9</sup>
- entering into collaborative arrangements with other local authorities (such as shared services).

If local authorities can exhibit only limited control over the price of the goods and services they consume, then the mechanism for controlling expenditure must be in controlling the volume of goods they consume. That is, if the price of bitumen increases 10 percent, but budgets increase by 4 percent because population growth and the CPI has been set as a prudential parameter, then the local authority must buy less bitumen and construct, seal or reseal fewer roads. That is to say, that these limits can and will have consequences for levels of service.

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<sup>7</sup> These can be found at [http://www.solgm.org.nz/Folder?Action=View File&Folder\\_id=130&File=BERL SOLGM Forecasts of Price Level Change Adjustors 2010 Update.pdf](http://www.solgm.org.nz/Folder?Action=View File&Folder_id=130&File=BERL SOLGM Forecasts of Price Level Change Adjustors 2010 Update.pdf)

<sup>8</sup> At this point some of the Committee might note that goods such as plastic, concrete and steel are produced in New Zealand. This is true, but the ability to sell overseas means that in practical terms the price is determined internationally. In fact, the issues with these goods are little different from the price of milk – where the fact that Fonterra trades its milk internationally means that the price of milk reflects the international supply and demand rather than the local cost of production. This is one of the economic realities of globalization.

<sup>9</sup> Virtually all capital expenditure, and the asset related components of operating expenditure, are “market tested” through competitive tender.

There are major concerns about the impact of fiscal thresholds on infrastructure investment, concerns reinforced by international research. Attempts to severely limit either rate increases or debt levels, beyond limits identified by the Office of the Auditor-General or rating agencies, will have a potentially serious impact on the state of local infrastructure. Imposed fiscal thresholds have been identified as the primary reason for the major infrastructure deficit facing communities in New South Wales.

## **Investing in the Future**

Local authorities are in the final throes of adopting 2012-22 LTPS, and commentators such as the Auditor-General have noted that the sector is generally planning to reduce debt levels over the intentions in previous plans. Debt is part of investing in the future and supports the public service of long term stewardship.

A previous Minister of Local Government observed that “debt is just deferred rates”. The statement omits the key part of the story.

Local authorities provide assets that have long service lives – 50, 80, 100 years (some even have perpetual lives if maintained correctly). This means that both present and future ratepayers get to enjoy the benefits that these assets generate. One of the core principles of government finance is the principle of intergenerational equity – that, all things being equal, where future ratepayers enjoy a benefit from a service, they should meet part of the cost of its construction.

The way local government does this is by borrowing part of the cost of the asset, and spreading the repayments over time, not dissimilar to taking out a long term mortgage. A decision not to borrow, or to borrow “too little”, is also assuming that today’s ratepayers should subsidise the consumption of tomorrow’s ratepayers.

Historically local authorities had very low levels of debt. Today’s debt levels appear high relative to the levels of debt local authorities had in the past. In the year to June 2010, local authorities invested some \$5.4 billion in \$102.9 billion dollars worth of assets, and used 5.5 percent of local authority revenue to pay interest.

In fact, local authorities have been criticised for their reluctance to borrow, including:

- the 2006 Report of the Central/Local Government Funding Project Team<sup>10</sup>
- the 2007 Report of the Independent Inquiry into Local Government Rates
- the 2009 jobs summit – where participants not only criticised the sector for its lack of debt (terms such as “lazy balance sheets” were used) but also gave the sector an unambiguous message that councils should be increasing their infrastructural investment to “help communities through the recession”. The Government established the Local Government Funding Agency largely to assist councils with the cost of borrowing.

It is essential to understand what local authorities are borrowing to fund, and their overall ability to service the debt. The key question to be asked is not what the absolute level of debt is, but rather does an individual local authority have the ability to service an

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<sup>10</sup> This report also provided a set of indicators of potentially high levels of debt as being total debt of more than 150 percent of operating income, or where the interest expense is more than 20 percent of rates revenue.

appropriate level of debt. If the answer is yes, then there is no issue. This is simply standard commercial practice.

The sector as a whole is not heavily indebted. There are, however, a small number of local authorities that have debt levels that are a potential concern. The sector must acknowledge these examples but explain why they are the exception and not the rule.

### **Prudence and Financial Strategies**

The concept of financial prudence is already firmly established in the Local Government Act. This includes the following:

- an obligation to manage all financial dealings prudently and in the current and future interests of the community – this obligation sits over the top of all other financial management obligations
- an obligation to balance the operating budget (unless it can be demonstrated that it is prudent for local authorities to not balance the budget)
- an obligation to adopt a financial strategy including self set limits on rates and debt as introduced as part of the LGA 2010 amendments
- strategies receive an audit for compliance with the legal requirements (including the requirement to be financially prudent) and on the quality of forecasting assumptions and other information used to develop them
- the first financial strategies are in the 2012 -22 LTPs that are just being finalised and there is no evidence base that supports altering the changes Government enacted only two years ago
- from September 2013 local authorities must provide a report prior to each triennial election that shows whether the local authority has complied with its self set limits, reports on the outgoing council's financial stewardship and sets out the major spending issue for the next triennium
- these reports are not due for 14 months.

Both LGNZ and SOLGM question why there is a need to alter current legislation when the amendments made in the LGA in 2010 have only now been implemented and therefore the evidence requirements for change can only now be established using the information in council financial strategies. Policy change should be made on a sound evidential base.

In addition, there already are well established non-statutory benchmarks that can inform a test of financial prudence, especially with regard to debt. The 2006 Report did not invent the benchmarks it reproduced but built on benchmarks used by international rating agencies as the indicator for "AAA status".

The Government cites some examples of imprudence; however, these issues arose before the most recent package of amendments to the LGA and therefore cannot be cited as evidence that the current framework does not provide adequate controls<sup>11</sup>.

The assessment of prudence is not an easy one to make. Prudence requires assessment against each council's particular circumstances. It could be considered that a council that keeps rates increases to one percent has managed prudently. Councils have found, however, that a decision which creates a backlog of deferred maintenance and renewals ultimately creates a larger future cost to be funded which is neither prudent nor equitable.

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<sup>11</sup> Timaru have received a qualification on their 2012 LTP – but because they refuse, on principle, to adjust their financial forecasts for the effect of price change. This is not the same thing as a failure to act prudently.

## **Types of Benchmarks**

The policy intent is that the Bill provide the Government with a power to develop parameters or benchmarks that can be used to assess whether a local authority is managing its financials prudently.

Therefore LGNZ and SOLGM propose that the new section 259(3) needs to contain no detail other than giving regulators a power to prescribe parameters or benchmarks. Providing a list of examples in 259(3) a (i) inadvertently pre-determines that the benchmarks will be drawn from amongst that list. There has been no close examination of the unintended consequences of these examples and the ratio using the CPI has already been questioned.

To further support this point, we refer to the provisions in the current section 259 which provide regulators with the power to prescribe measures of non-financial performance. There are no such examples in those provisions so this amendment is at odds with existing legislation.

We note that the Bill would give regulators the power to prescribe different benchmarks for different categories of local authority. If fiscal responsibility provisions are part of this then it is a sensible inclusion. The financial needs of a territorial authority are quite different from a regional council. In a similar vein the financial needs of a high growth local authority may be quite different from those of a local authority with a declining population.

## **Transition**

If Parliament decides that the fiscal responsibility provisions should be included in legislation then there may be a transitional issue. We understand that the Department intends to work on regulations over the next six months and promulgate them early in 2013, to take effect on 1 July 2013.

In most cases, the level of debt is a "legacy issue", that is to say that debt levels are the results of decisions and actions of previous councils, and councils have taken steps to reduce debt levels in their 2012/22 long-term plans. If regulations came into force on 1 July 2013, there would be 5-6 local authorities that would on that day automatically have a "problem" (for the purposes of the intervention and assistance framework).

Other local authorities may have investment and expenditure plans that call for a higher level of rates increase in a particular year, and may need to make amendments to their long-term plans to defer projects to future years, or to abandon projects altogether.

By the time regulations are developed and promulgated many local authorities will have substantially completed their main phase of development for their 2013/14 annual plans – some may even have gone out to consultation.

The Bill should provide that any regulations prescribing prudential benchmarks may not take effect until 1 July 2014. This has the added advantage of allowing a little more time to develop the benchmarks, and minimise the risk of unintended consequences and other forms of policy error.

### **Question for Discussion**

**LGNZ and SOLGM intend to oppose the imposition of Government benchmarks. However, LGNZ and SOLGM believe that a case for establishing a central set of benchmarks by and for the sector exists and would much prefer a self-regulatory approach to one that is centrally mandated by Government. Would you agree with such an approach?**

**In the event that the Committee proceeds with this part of the Bill then we would propose the following amendments to clause 14:**

**(i) deletion of examples of the types of benchmarks**

**(ii) provision that any regulations prescribing prudential benchmarks should not take effect until 1 July 2014.**

**Would you agree with these recommendations?**

## **Intervention and Assistance Framework**

In the Better Local Government announcements, the Government stated that:

“New Zealand cannot afford to let some councils underperform, mismanage important decisions or worse, risk failure. There is too much at stake”.

To manage such risk, the Bill would extend the current powers available to a Minister to intervene in local government affairs. As the explanatory note states “the Bill provides a graduated mechanism for Crown assistance and intervention in the affairs of local authorities, enabling central government to provide assistance to struggling councils before the situation becomes critical”.

On occasions when councils have had problems they have not been able to resolve themselves, voluntary collaborative action within the sector has proved to be an effective way of addressing them. In keeping with the principles of quality regulation we have questioned whether these provisions are necessary.

### **Are Additional Powers to Intervene Necessary?**

The RIS argues that the existing powers to intervene in councils date from a time when local authorities could only undertake those roles specifically empowered by statute, and that government subsidies acted as a financial control. However, we have already seen that local authority activity has not expanded since 2002, and certainly that none of the “problems” that this legislation has been designed to solve arose out of any expansion of activity. The Local Government Act 1974 was also more empowering – in particular section 548 provided a power to do any Act or thing that promoted community wellbeing

Existing oversight provisions are already quite extensive:

- OAG checks LTPs for fiscal prudence and through their reports they draw issues to the community’s attention, and to Parliament’s
- OAG may inquire into any aspect of a council’s decision-making where some form of irregularity might have been identified
- the Office of the Ombudsmen also has an oversight role and as well as being able to inquire into a council decision can over-turn a decision made by a committee or sub-committee of a council
- citizens concerned about matters such as a failure to adhere to the decision-making and consultation provisions of the Local Government Act can take action through the Courts
- the Minister currently has powers to intervene under Part 10 of the LGA 2002, which are triggered by either a disaster or failure of a local authority to perform its functions, duties and responsibilities.

In addition, councils that might “have a problem” can voluntarily approach either the Government or LGNZ for assistance. LGNZ is exploring the practicality of setting up a team that would be available to councils which either to provide options for solving “a problem” or providing a “report card” on the degree to which processes meet good practice.

Where issues have arisen democratic processes have often provided the mechanism for solving them. Councillors that perform badly and lose the confidence of citizens will inevitably be punished through the ballot box. Communities concerned about financial management in their local authority, can and have removed entire councils. This is the key democratic check on council performance.

Currently a number of councils are dealing with financial pressure created by the Global Financial Crisis (GFC), which saw a rapid decline in funding from development contributions, exacerbated by the fact that councils have built infrastructure in the expectation of future development, which has temporarily halted. It is not clear how this intervention framework could help councils in this situation, given that the original decision made by one council to build an enlarged waste water scheme was made in 2006. The local government sector is not the only part of the economy to have suffered from the GFC because of decisions made prior to the GFC.

### **Triggers for Intervention**

All of the intervention powers in this Bill are predicated on the existence of a “problem” which is defined as any of the following:

1. matters or circumstances relating to management or governance detracting from a councils ability to give effect to its purpose
2. the consequences of a state of emergency
3. a failure to demonstrate prudent management of its revenues, expenses, assets, liabilities, investments or general financial dealings in terms of any parameters or benchmarks.

The first criterion is similar to the existing provision, and is a necessary back stop. This provision has been used infrequently and indicates there are few problems with governance and management that councils actually experience. The publicity that this provision has received may act as a spur for groups unhappy with a council’s decisions or actions to communicate with the Minister alleging that a “problem” exists.

In relation to the second criterion the Government needs the ability to intervene in a district which has suffered a major disaster of some kind, although in our view such intervention should be triggered by request from the council concerned.

Our main concerns are with the third trigger, a failure to meet defined parameters or benchmarks. We can conceive of no circumstances where a council that is managing finances imprudently would not have had a non-standard audit report and would therefore be explaining the reasons for this and the proposed action in its Long Term Plan. Auditors take a cautious, preventive view in applying their judgement on what is prudent and often require local authorities to disclose some of the key assumptions on which their financial strategies are based and the sensitivity involved<sup>12</sup>.

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<sup>12</sup> For example, although the prudence of the plan is not an issue, Auckland Council were required to highlight the centrality of funding for their transport projects and the impact of this assumption not materializing and the Chatham Islands were required to disclose the fact that their strategy is reliant on ongoing commitments of government funding.



## **Requests for Information**

The Bill empowers a Minister to request information of local authorities in regards to “problems” the Minister has identified. The Minister can specify the nature of the information they seek, the form in which it is to be provided, and a timeframe for the response. The Bill does not contain a minimum timeframe.

There is no barrier to the Minister requesting this information under current legislation.

The most common forms of “problem” will revolve around financial matters – where information will generally be readily available from LTPs, annual plans and annual reports. Other issues will generally revolve around current or proposed projects where, again, the detail will be available in accountability documents.

Any request of a local authority is a request under the Local Government Official Information and Meetings Act (LGOIMA) and could only be declined if there were grounds for it. Therefore there is no clarity regarding the interface between a request of this nature and a request under LGOIMA might be.

## **A Graduated Response**

As highlighted in the Regulatory Impact Statement, the existing powers can only be used in a crisis situation and consequently lack “flexibility and real world usefulness”. It is important to scale the response to a problem. However, LGNZ and SOLGM recognise that the sector can help itself by supporting a struggling council in a problem situation.

Regarding the intervention which triggers a Minister appointing a Crown Manager, we are concerned that this provision does not allow for sufficient pre-investigation. It is important that the Minister has sufficient detailed knowledge of a problem, and has sufficient time to gather appropriate information and evidence before intervention is made.

## **Ministerial Appointees**

The Bill currently appears to give the Minister jurisdiction to appoint any person they wish to a Crown Review Team, or as an Observer, Manager or Commissioner.

This discretion may be too wide. As defined in the Bill, a “problem” will most often involve the application of judgement on what is and is not prudent in a given circumstance, and sound professional-quality advice on how to resolve the problem. The following skill sets would be most useful – financial management, law, asset management, or local governance.

## **Conclusion**

The Government’s statement that too much is at stake to let councils fail or mismanage important decisions is concerning as it fails to recognize the fact that councils have been operating successfully for most of the country’s history. This is reflected in the following extract from the Regulatory Impact Statement:

"The existing framework assumes that councils are autonomous, can generally handle all of their responsibilities, duties and powers, and that government intervention in councils may be required only in exceptional circumstances" (RIS p. 22)

LGNZ and SOLGM believe there are too few struggling councils to warrant an extension of the Minister's powers and that in the main the issues faced by those councils are unlikely to be resolved by this framework. We note that the Regulatory Impact Statement identifies three risks associated with these proposals, namely

- Making it easier for the Government to get involved in councils affairs will threaten the democratic control of councils and undermines the principles of local autonomy, local choice and diffusion of power.
- More power may encourage a greater number of people to seek ministerial intervention in councils to achieve local political objectives
- Struggling councils might try and persuade the government to solve problems for them.

We agree that these factors are real risks. In our view the local democratic process is generally sufficient to address problems that arise in councils. Ministerial intervention should only exist as a means of last resort.

### **Questions for discussion**

**What powers should a Minister/Government have to assist and/or intervene in a local authority?**

**Why do you think the Minister should have these powers?**

**How might triggers and safeguards be designed to ensure that intervention for purely "political" grounds does not occur?**

**Would you change the definition of a "problem" as it appears in the Bill? If so, how ?**

**How likely is it that your local authority would decline a Ministerial request for information under the current legislation?**

**Should a Minister be able to appoint a Crown Manager, Commissioner or call an election without first having to have sought information, or put in a review team or observer?**

**Should there be some minimum skill set or skill sets for Ministerial appointees in legislation?**

## Reorganisation

The Bill and the Better Local Government announcements will not result in enforced re-organisation. Rather the provisions are designed to facilitate re-organisation proposals if that is what a particular community wishes.

The Bill amends the process by which reorganisation occurs. The process is:

1. an interested party prepares an initiative and submits it to the Commission;
2. the Commission assesses the initiative against statutory criteria and either rejects it, refers it back for further work or proceeds to develop the initiative into a draft proposal;
3. the Commission approves and publishes a draft proposal for consultation;
4. the Commission hears submissions on the draft proposal;
5. the Commission determines whether the proposal has sufficient public support and if so, proceeds to a final proposal;
6. if a petition of at least 10 per cent of the affected electors of the proposed new council request a poll, this will be undertaken and determined by a simple majority over the area of the proposed council area;
7. the Commission prepares a final scheme, implemented by Order in Council.

One of the key features of the proposed new process is a change in the poll provisions. Under the present legislation, any reorganisation requires a poll over the affected areas, and the proposal must succeed in each affected area to advance. Under the Bill, a proposal proceeds to poll if a petition of 10 percent or more of the electors across the total affected area is received, and the success of a proposal depends upon it receiving 50 percent or more of the vote across the total affected area.

The Bill adds a new test for the Local Government Commission – that the proposal must have significant community support. This test is an additional test to the “good local government” test that already applies. A proposal has significant community support if:

- there is support from a large proportion of the community, or the leaders of the community, for reform of current arrangements and
- there is substantial support for the changes in the reorganisation application.

The Commission can determine whether significant support exists by any means – including surveys, petitions, submissions or other correspondence, and meetings with the community or its representatives.

The criteria that make up the “good local government” test have also been amended. The Commission must now consider the benefits of a reform proposal for simplifying planning processes. The 19 March announcements state that this change may mean there is more interest in unitary authority models because of their potential to simplify planning processes and notes that in such cases the Commission will need to ensure that catchment based flooding and water allocation management issues are able to be dealt with effectively.

## **Comment**

Population and technology change inevitably means that administrative boundaries get out of step with community boundaries and we need an effective process for managing the necessary boundary changes to recognise this. The reorganisation process needs to balance efficient and effective service delivery with responsiveness to community concerns and issues.

Compared to most nations New Zealand's councils are already large. The evidence that supports the notion that amalgamation creates efficiency gains is equivocal, especially when placed alongside other forms of consolidation such as shared services<sup>13</sup>. Councils provide multiple functions some of which benefit from economies of scale while others suffer diseconomies of scale. In practice administrative boundaries are always a compromise.

There are reasons why administrative boundaries need to be reviewed from time to time, often as a result of population changing and sometimes situations where a loss of population means a council is no longer viable. There are limitations with the present process that need to be addressed, one of which is the inability of the Commission itself to significantly amend a proposal.

The proposals outlined in Schedule 1 will address the difficulties previously faced by the Commission; the question is whether they give the Commission too much discretion. As an appointed body with limited accountability to anyone other than the Minister, the Commission needs to be respectful of the community's right for democratic representation. There is a risk that this might be lost if the proposed framework was to be implemented without amendment.

## **Issues**

### **Who Can Make an Application**

Clause 2, of Schedule 3 proposes that one or more affected local authorities, the Minister or "anybody with an interest in the governance of the area or areas that the reorganisation application applies to" may make a reorganisation application.

Reorganisation alters citizens' democratic rights and can undermine democracy in communities that lose representation. We understand that the intent of the Bill is for the Commission to decline any such proposal unless significant community support is shown, however we consider this approach may be too widely specified.

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<sup>13</sup> A recent study by the Australian Centre for Excellence in Local Government (ACELG) recently reviewed Australasian experience of different forms of 'consolidation' - a term that embraces both amalgamations and shared services arrangements. It concluded that structural reforms do not necessarily translate to lower rates and charges. ACELG found that some internal cost savings might be generated through unification of corporate office type functions but almost always these savings needed to be ploughed back into asset management. ACELG also concluded that there was little evidence that amalgamation generated economies of scale greater than other forms of consolidation

The Prime Minister and Minister have each publicly committed that any reorganisation would be community led. As a starting point one logical approach might be to limit the ability to make an application to:

- any resident of one of the affected local authorities or
- any ratepayer of one of the affected local authorities (this captures people with business interests in the community but who do not live there, and non-resident ratepayers such as an Aucklanders who has a holiday home in Thames<sup>14</sup>)
- any of the affected local authorities
- the Minister<sup>15</sup>.

### **Commission Must Consider Other Options**

Clause 9 of Schedule 3 places the Commission under an obligation to consider other proposals to those specified in the application. This is a signal to the Commission that it need not accept a proposal “as is” – applications that would not meet either of the proposed tests in the form set out in the application, but may with some “tweaking” could then be considered.

The intent of this provision should be welcomed but there are no limits on the proposals that the Commission could consider. Read literally this provision could, for example, place a future Commission considering an application from two local authorities in the Central North Island under an obligation to consider proposals that reorganise the Waikato, Bay of Plenty, Taranaki and Manawatu. The question then becomes one of how far “community led” goes.

If this is deemed a concern, then there may be several options to limit the Commissions consideration of options. These include:

1. limiting consideration to the “reasonably practicable” options
2. limiting consideration to those proposals that are not inconsistent with the intent of the original application
3. placing a geographic limit.

### **Consultation on Proposal**

The Commission is under an obligation to consult. This includes the affected local authorities (and their neighbours), the applicant, the Auditor-General, the Secretary and the Secretary for the Environment, and Te Puni Kōkiri.

The Commission is not obligated to consult with residents as a group, though it may do so.

While it is important to consult with stakeholder organisations we must not forget that individual citizens have the right to be heard when it comes to the subject of changing their local representation arrangements. Given an assessment of significant community support need only involve gathering a view from the whole community, consultation may be the only opportunity for the whole community to make their views known,

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<sup>14</sup> An alternative formulation might be “any elector of the local authority” which would then only pick up those non-resident ratepayers who have exercised the option to register to vote, this demonstrating a level of commitment to the community.

<sup>15</sup> The Minister has the power to make an application under current legislation.

## **Petitions**

Clause 21 of Schedule 3 provides a statutory check on the process by allowing residents to trigger a poll by a petition signed by at least 10 percent of the electors in the affected area. Supporters of a poll effectively have eight weeks to gather signatures.

Reorganisations could potentially be very large in terms of population (for example, if a proposal to unify all of the Wellington TAs were notified) or geographic area (for example, if a proposal to unify all Canterbury or Waikato authorities were notified).

Government has arrived at eight weeks as a reasonable period of time to gather signatures. The key question for debate is whether this is a sufficient period or not.

## **Ministerial “Expectations”**

The Bill places a new section 31A into the body of the Act that gives the Minister the power to “specify measures and expectations relating to the Commission’s performance of its powers and duties”. The Bill specifically mentions timeframes within which the Commission must progress certain matters, and which applications are to have the highest priority”.

This provision appears to permit a future Minister to direct the Commission to progress some applications at the expense of others. This would put a degree of politics into the process – for example, that a Minister could direct the Commission to assign a proposal affecting their electorate a higher (or lower) degree of priority. The Commission was established to put the reorganisation process at arms length from central government’s political considerations.

## **Transitional Modification**

Clause 11 adds a new section 24A which would allow the Governor General, through an order in council, to delay for no more than 12 months an election if a local authority is affected by a reorganisation proposal.

There are a number of practical issues with this Clause not the least of which is the fact that existing elected members may not wish to extend their term for another year and the fact that council areas might be divided with part of an area affected by a re-organisation and another part not. In addition should an area be given an extension it means that the next council will have a term of only two years.

### **Questions for Discussion**

**Should all reorganisation proposals have to go through a poll before proceeding. Why or why not?**

**Should any poll have to succeed in each affected area, or over the entirety of the affected area? Give reasons for your answer.**

**Who should have the right to make an application?**

**Should the Commission be placed under an obligation to consult the residents and ratepayers of the affected local community? Why or why not?**

**What period of time should the Bill allow for gathering signatures for a petition?**

**Should the Minister be able to specify timeframes for the Commission to progress matters and specify which applications have priority? Why or why not ?**

**Should the Government be able to delay an election for up to 12 months where local authorities are under a reorganisation proposal?**

## **Mayoral Powers**

If enacted, the Bill would give Mayors the power to:

- appoint deputy mayors
- establish committees
- appoint committee chairs and
- propose plans and budgets.

These powers would apply from October 2013 (i.e. after the next election). The provision does not apply to regional council chairs, on grounds that regional council chairs are not directly elected by the voters.

The provision is empowering, rather than mandatory. In other words, a Mayor could decide to propose one policy or plan but not another, or could appoint a Deputy Mayor, but not another. The discretion to exercise these powers rests solely with the Mayor.

In the BLG paper the Government states that mayors need the capacity to provide clearer and stronger leadership, as was introduced in Auckland, and that “it makes good sense for mayors across New Zealand to have similar governance powers”.

The governance model in the Local Government Act is predicated on a premise of Mayor and councillors establishing a cooperative working relationship. The degree to which this change aids or impedes establishment of such a dynamic will vary from council to council depending on a variety of factors such as the pre-existing governance dynamic, differences or similarities in the policy objectives of the Mayor and the remainder of council, and how the powers are used.

We invite individual local authorities to consider how this change would “play out” in their own local authorities.



## **Question for Discussion**

**LGNZ and SOLGM do not propose to comment on this aspect of the Bill. Would you agree with this proposed stance? Why or why not?**

## **Employment and Remuneration**

The Bill would:

- provide local authorities with the power to adopt a policy on staff levels and remuneration – it is understood that this provision was intended to replicate Cabinet’s power to set a limit on the number of public sector employees and set an overall “envelope” for pay negotiations
- require disclosure of the number of employees by remuneration band in the council’s annual report.

These provisions appear based on an assumption that staff costs with local authorities are “out of control” and that councils lack the tools to manage such issues. This is not supported by evidence.

Remuneration expenditure makes up a significantly lower proportion of local government expenditure today than historically. In 1993, remuneration accounted for 29 percent of local authority expenditure, while in the year to June 2010 remuneration accounts for 23 percent of local authority expenditure. In other words, other costs have been rising at a faster rate.

In addition the official measure, showing changes in the wages and salaries paid (the Labour Cost Index) shows that labour costs in local government grew by seven per cent between June 2008 and June 2011. In the same period labour costs in central government (core sector only) have grown by 7.5%. Government compares local government wages and salaries with expenditure on the “core state sector”, which is a sub set of central government wages and salaries and is not the full picture of the whole sector.

## **Employment Policies**

SOLGM and LGNZ have a number of concerns about the introduction of staffing and remuneration policies:

- the tools already exist - local authorities already set a limit on spending on remuneration in their long-term and annual plan
- these plans are subject to consultation (unlike the proposed remuneration policy)
- to the extent that elected members are able to exercise a right of veto over staffing and employment decisions, this will have the effect of blurring the line between governance and management established in the reforms of 1989
- the “second-order impact” of this policy setting would result in more difficulty in attracting quality applicants for Chief Executive, and an increase in employment disputes
- specifying staff numbers is a very blunt and largely ineffective way of controlling inputs as officials may turn to consultants to meet council expectations, at greater cost

- we note this risk is identified in the RIS that accompanied the Bill
- local authorities compete in a global market for specialised skills and skill shortages already exist in professions such as civil engineering, building inspection, planning and even in the recruitment of “quality” finance staff - especially in rural areas  
To the extent that the remuneration policy is successful, it is likely to further inhibit recruitment in these areas.

The wording of the Bill may misapply the Government’s policy intent. We understand that the Government had intended that an employment and remuneration policy would specify overall staff numbers and constrain the overall remuneration bill. The proposed new section 36A currently empowers local authorities to “adopt a policy that sets out the policies of the local authority in relation to employee staffing levels and the remuneration of employees”,

Worded in this way, this appears to allow the council to adopt policies that sit below the ‘whole of council’ level. This invites elected members to attempt to specify the number of employees who work in each group of council (e.g there will be no more than x rates clerks, or 3 librarians) or specify remuneration of individual employees.

### **Remuneration Disclosures**

The second of the interventions in the Bill would require local authorities to disclose the number of employees by remuneration band. We note that this is an extension to a requirement that already exists under Generally Accepted Accounting Practice (which requires disclosure of the salaries of “key personnel”<sup>16</sup>).

We would question whether the legislation should specify the remuneration bands. Over time remuneration will increase, economic theory suggests that in the long run salaries will increase by the rate of inflation and to reward improved performance/productivity. Over a period of 5-10 years the bands will “date”. We consider that the legislation should provide the department with a power to specify the bands for disclosure in regulation, this allows amendment without having to go through a full Parliamentary process.

### **Question for Discussion**

**Should references to the employment and remuneration policy be deleted from the Bill?**

**Should the proposed section 36A be amended to ensure the elected members may only set the overall staffing level for the local authority, and the overall remuneration bill?**

**Should references to specific bands be deleted from section 32A, schedule 10 and that section 259 be amended to allow the Department to specify the bands for disclosure purposes in regulation?**

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<sup>16</sup> This is typically interpreted as applying to Chief Executives and those staff that report directly to Chief Executives.

## Electoral Matters

We had understood that the Government intended to fold the amendments promoted in the Local Electoral Amendment Bill into this legislation, but we see that this has not been the case.

The changes in that Bill include:

- a change to the so-called +/- 10 percent rule that local authorities must follow when drawing ward/constituency boundaries to allow for better alignment of boundaries and communities of interest
- a change to the procedure for making minor adjustments to the boundaries of wards and constituencies
- moves the nomination period back a week
- a requirement that candidates must submit their nomination form, the candidates consent and certification, and the deposit together (and a candidate profile if one is to be supplied)
- a provision that allows for cancellation of a nomination if a candidate becomes incapacitated during the election period
- a requirement that voting documents contain a warning about voting offences (such as improperly filling out someone else's voting paper)
- empowers Electoral Officers to make the decision to process voting documents ahead of polling day – as opposed to having to get a council resolution empowering them to process votes early
- a provision that allows the Minister of Local Government to adjourn an election process in emergency circumstances.

The above changes are, or should be, non-contentious. A definition of an “anonymous donation” was not included in this Bill. With the exception of the changes to the representation rules, the changes are procedural and technical in nature. The changes were part of the last two reports from the Justice and Electoral Select Committee enquiries into local elections, reports that were unanimous.

The Bill was introduced into Parliament just before the last election but, as of the time of writing, has not had a first reading, and therefore has not been referred to a Select Committee.

The Government had intended to have these changes enacted to take effect for the 2013 local elections. Local authorities are moving to finalise their representation reviews. If Parliament intends that the changes to fair representation rules take effect from the next election then the Bill needs to be enacted expeditiously.

We agree with the Minister responsible for the introduction of the Bill that the changes in the Bill strengthen the overall efficiency and integrity of the local electoral system and can

see no reason why this Bill has not been further advanced. These benefits are not confined to local authorities; the Committee should remember that local authorities also administer District Health Board and licensing trust elections.

Although Standing Orders bar the Committee from progressing the amendments through this Bill, or of its own initiative, we ask that the Committee should use its report on this Bill to remind Parliament that “the clock is ticking” on the Local Electoral Amendment Bill.

### **Question for Discussion**

**Would you agree with LGNZ and SOLGM including the following recommendation in the final submission?**

**“That the Select Committee use its report on this Bill to commend the changes in the Local Electoral Bill to Parliament’s attention and urgent action.”**

**If not, why not?**



## Appendix 1

### Local Government Cost Index – Drivers of Cost Increases

- Movements in international energy prices have both first and second order impact on local authority costs. The most direct impact is on the cost of running vehicle fleets, pumping on local authority reticulated networks and operating and maintaining facilities. Energy prices (especially oil) are determined in international markets and in the case of oil are driven by increasing global demand and a tapering off in global supply once the Hubbert peak is reached.
- Shortages of key skills in local government – especially civil engineers, experienced planners, and building inspectors have caused some “bidding up” of salaries for recruitment and retention.
- The occupational breakdown within local government is more senior, more tertiary (or trade) qualified, and deals with a higher degree of skill specialisation and non-transferability than other parts of the economy.
- Population growth (and change) creates additional demand for infrastructure (both network infrastructure such as roads and water supplies and community infrastructure such as recreation centres.
- Population change (such as the aging population) creates demands for a different portfolio of services – as the population ages that may carry less demand for roading, more demand for passenger transport; demands for different types of recreational assets.
- Economic growth and transformation create their own demands and similar to population growth, the impact of economic growth and transformation is different from local authority to local authority.
- Dairy conversions in rural Southland have seen regional incomes move at a faster rate than the national average – but the greater frequency of heavy traffic creates accelerated depreciation on the network, demand for road widening and smoothing for safety reasons.
- The 2010 and 2011 Canterbury earthquakes have, and will have, a financial impact for the sector as a whole - increases in insurance costs – the main insurer of underground assets had to increase the premiums 400 percent to restore depleted funds. As the recovery work moves from demolition and removal to reconstruction, the capacity of the civil construction industry will be stretched, this will manifest itself in tender prices.
- Increases in tender prices, and a general trend to increasing land values increases the replacement cost of infrastructure. When coupled with a requirement to manage assets and finances prudently and balance operating budgets, this means local authorities have to fund the loss of service potential. Since the introduction of the balanced budget requirement depreciation has increased to the point where it now accounts for 23 percent of the operating budget.

