

## Local Government Amendment Bill

A Bill amending the Local Government Act 2002 is currently before the Local Government and Environment Select Committee. Submissions can be made until 18 June.

The Minister in charge of the Bill is Hon Rodney Hide and he has been vocal about what he intends to achieve. The Minister wants local government to focus on 'core' business, have simplified long-term and financial plans, reduce consultation requirements and provide better opportunities for private sector involvement. As discussed below the Bill achieves these stated aims. The Minister has dropped plans relating to binding referenda.

### **New provisions for regulating core services**

The biggest change has not previously been signalled by Government. New sections (cl 38-41) provide for regulations that can establish rules for "performance measures" for: water supply; sewage treatment / disposal; stormwater; flood protection; and provision of roads. These regulations will be issued by the Secretary for Local Government (being the head of the Ministry of Internal Affairs). The only clue about the content of such regulations in the Bill is that written material including standards and requirements can be incorporated by reference into the rule. The commentary notes that "*new section 261A requires the Secretary for Local Government to make rules specifying performance measures with which local authorities must comply in delivering certain key services.*" Depending on what the rules are these regulations could enable significant central government direction to local government. This is a fundamental change. Currently the only power to make regulations relates to minor matters such as forms and infringement fees.

In addition to new central government regulatory powers there are provisions that require local government to pay a levy to central government (cl 39). This levy is to fund the work undertaken by central government to establish the rules specifying performance measures. It is unusual for central government to charge for producing regulations. The collection of this levy and ratepayers expectations that their overall spend does not increase could lead to rate increases for local government.

The sections that specified the information requirements for assessment of water and sanitary services have been repealed (cl 29). Presumably this is because regulations will cover assessment of these services.

### **New requirements including a financial strategy**

The long-term plan (note that Long term council community plan is renamed) is to include a financial strategy for all the years covered by the long-term plan (cl 17 inserts s101A). Factors expected to have a significant impact need to be addressed and include population change and expected capital expenditure. A statement on "*quantified limits on rates, rates increase, and borrowing*" must be included along with an assessment of the ability to provide existing and future levels of service.

The long-term plan must group activities and the new schedule 10 specifies the activities that the new regulations apply to (i.e. water supply; sewage and the treatment and disposal of sewage; stormwater drainage; the protection of the community from flooding; and the provision of roads) are each a group of activities. Capital expenditure for a group of activities must be given as well as a statement of service provision and funding impact statement (these requirements also apply to the annual plan).

The long-term and annual plan must now include financial statements for the previous year (new cl 14 and 20 Schedule 10). This numerical information *"must be presented in a way that allows the public to compare the information with the numerical information contained in the forecast financial statements for each of the financial years covered by the plan."*

The long-term and annual plan must identify each reserve fund, explain what it is for and the amount expected to be included or removed from the fund (new cl 17 and 22 Schedule 10).

Any internal borrowing is to be described in the annual report (new cl 28, Schedule 10).

A statement that all statutory requirements have been complied with is also required in the annual report (new cl 35, Schedule 10).

### **Pre-election report**

New provisions are inserted to provide for a pre-election report (cl 16 insets new s99A). This report must be produced by the chief executive of the local authority to *"provide information to promote public discussion about the issues facing the local authority"*. The detail of what the report is to include is found in new part 4 of schedule 10. Information on the past 3 years includes: the funding impact statement; a summary balance sheet; and a statement setting out the extent to which the local authority has complied with its financial strategy. For the 3 years after the election the report must include: the funding impact statement; a summary balance sheet of forecast financial statements; and planned major projects.

The requirement for the chief executive to provide a statement on how the financial strategy will be complied with is interesting and is likely to lead to a very general report because the chief executive will not want to be seen to be political.

The report must be issued at least 2 weeks prior to the nomination day and must not contain any statements by elected members.

### **3 year review of policy on development or financial contributions**

Section 106 is amended (cl 22) to require a review of this policy at least once every 3 years.

### **6 year review of policies on rates remission**

Policies on rates remissions and postponement (s108 -110) are required to be reviewed at least every 6 years.

### **Simplifying plans and consultation requirements**

Requirements for determining and reporting on community outcomes have been reduced (cl 4 amends the definition, cl 12 repeals sections 91 and 92, schedule 10 is amended). The consultation and reporting requirements have been removed.

Some decisions can be made more easily (cl 14 repeals s97(1)(c ) and (d), and cl 18 amends s102(4)) including amendment to funding and financial policies via the special consultative procedure rather than being restricted to the LTCCP) . The requirement to use the special consultative procedure is removed for a change in delivery of a significant activity (cl 11 repeals s88).

Requirements for audit of plans are reduced (cl 13 and cl 19 amends s103 so that only significant amendments to the revenue and financial policy require audit). The requirements for the liability management policy (cl 20) and investment policy (cl 21) are also reduced. Generally accepted accounting practice is not to apply to the funding impact statement (cl 27 amends s111).

An intention to dispose of endowment property no longer needs to be included in the long-term plan (cl 33 amends s141).

Expenses of community boards can now be funded by a targeted rate or general rate (cl 45).

### Focus on 'core' business

A new provision (cl 5 new s11A) is included requiring local authorities to have particular regard to the contribution of core services. The core services listed are: network infrastructure; public transport services; solid waste collection and disposal; the avoidance of mitigation of natural hazards; and libraries, museums, reserves, recreational facilities, and other community infrastructure. These core services differ from what the new regulations will apply to and do not include many of the statutory functions of local government (i.e. Resource Management Act 1991 planning requirements or dog control etc).

### Increased opportunities for private sector involvement

The requirement for a funding and financial policy on partnerships with the private sector has been repealed (cl 18 amends s102(2) and cl 23 repeals s107).

Contracts relating to the provision of water services can now be made for 35 years as opposed to 15 (cl 31 amends s136). If an agreement is entered into the local authority no longer retains control over the "*management of water services*" but does "*continue to be responsible for providing water services*".

### Conclusion

Overall there are some fundamental changes affecting local government in this Bill. Central government is both trying to free up Councils from some procedural hurdles, but at the same time impose performance measures that Councils need to fund.



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