

# Examining the Possible Effects of the Local Government Review on Local Government Asset Management Practices

This paper was presented by [Peter McKinlay](#), executive director of MDL, to the 5<sup>th</sup> Annual Local Government Asset Management Conference in Auckland on 15 & 16 April 2002.

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## INTRODUCTION

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This paper is not so much about asset management, as about the context in which asset managers will function in future.

I want to start by looking at the intention behind the new Local Government Bill. There is a public impression that the main effect of the Bill is to give local authorities a power of general competence, understood as a significant expansion of the power of local authorities, enabling them to undertake a wide range of activities that were previously outside their scope. In general terms, it has been assumed that local authorities will have much the same powers as (say) companies under the Companies Act which themselves have generally all of the powers of a natural person.

This broad view of the power the Bill will confer on local authorities is reflected in the submission that Business New Zealand made on the Bill. Clause 7.6 of that submission states:

*“A local authority would have full capacity to carry on any activity or business, do any act, or enter into any transaction (clause 9(2)(a)). A local authority would be able to exercise its powers as long as it considers the action to be consistent with promoting well-being, and follows the required decision-making processes, and the action is lawful (clauses 9(3) and 9(4)).”*

A better impression of the government’s intention of how the Bill will operate in practice is found in the Minister of Local Government’s first reading speech in which she stated:

*“Mr Speaker this Bill is, above all, about “empowerment”.*

*Not as some might imagine, the empowerment of councils to exert greater influence and authority over their electors, but rather, empowering New Zealanders within their local communities to exercise ever greater control over their lives and over the environments in which they live.*

*This is to be achieved:*

- *by requiring councils to conduct their decision-making processes in a more open and democratic fashion;*
- *by requiring greater responsibility from elected members in return for increased*

*legislative flexibility;*

- *by providing councils with legal rights to the things that they have a valid community mandate for; and finally*
- *by giving people the information and opportunities they need to influence council decision-making.*

*To be successful Mr Speaker, councils must in future be driven less by a need for strict compliance with a detailed statute, and more by the need to deliver results that local communities demand.”*

Consistent with that statement of intention, the new Bill contains very substantial consultation and accountability requirements. None will ultimately prevent local authorities from undertaking activities, or adopting structures, which they believe to be in the best interests of their communities but, collectively, they will impose very real constraints both on local authorities themselves and on any arrangements they put in place involving third parties or arms length arrangements.

The consultation and accountability provisions of the new Bill suggest that the Minister meant exactly what she said. Collectively there is a very significant shift from the present provisions towards an approach which, depending on your view of it, will either:

- ▶ Provide communities with much greater control over the activities that their local authorities undertake on their behalf; or
- ▶ Add very substantial compliance costs, including costs of delay, but with little if any enhancement in genuine community accountability.

Which outcome we get will depend, I believe, very much on how intelligent the local authority sector itself is in responding to the provisions in the new Bill. Here I am making the assumption that the Bill, when finally enacted, will not contain any significant changes in respect of consultation and accountability requirements other than, perhaps, some clarification of wording and possibly some tightening of certain provisions.

In the remainder of this paper I:

- ▶ Background the political context.
- ▶ Consider the current statutory context.
- ▶ Provide an overview of the new statutory environment.
- ▶ Consider the implications and how to respond.

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## **POLITICAL CONTEXT**

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In considering both how the Bill will finally emerge, and the intention behind it (which will no doubt reflect what government expects to see in implementation) it is useful to reflect on the political context. The Bill is part of a process which has been very much influenced by the politics of MMP.

A recent example, which has some implications for asset management, is the government's transport package. Announcement of that package was held up for some time whilst negotiations took place between the coalition government and the Greens. The government did not want to announce the transport package until it was confident that it would have a majority in the house to pass the legislation needed to increase the petrol excise. The Greens wanted to ensure that the package, as far as possible, moved away from seeing more roads as the primary solution to New Zealand's transport problems to what they regarded as a more balanced emphasis on a mix of roads, public transport, and better provision for pedestrians and cyclists. A subplot within this negotiation was the Greens' longstanding opposition to the Wellington motorway extension. Apparently there is a view that the fine print in the package (the requirement for reassessment of projects against a new set of criteria) may make it difficult for that extension to proceed.

Expect a similar process to play out around aspects of the Local Government Bill, this time driven not just by the specific objectives that the Greens may have, but also by government objectives. Factors influencing the political context in this respect include:

- ▶ The Minister of Local Government's obvious concern that ownership and management of water and wastewater assets in Auckland has gone far too far down a commercial path and needs to be reined in so that there is better accountability to councils, and through councils, to their communities. (We have already seen one consequence of this with the provisions in the Local Government (Elected Members Remuneration and Trading Enterprises) Amendment Act 2001 with its changed provisions for the accountability of directors of local authority trading enterprises.)
- ▶ The Local Government and Environment Select Committee is chaired by Jeanette Fitzsimons, the co-leader of the Green Party. Her party has a strong interest in seeing the new Bill make what it regards as better provision for environmental management, especially in the water and wastewater areas. A Green Party objective has been that local government should have a statutory obligation to prepare a "whole of systems" water management plan (water, wastewater, stormwater) in the same way as it currently has a statutory obligation to prepare a waste management plan.

This supports a view that, if anything, the Bill when reported back to the House will tighten a number of provisions in areas such as consultation, planning and accountability (including, possibly, the constraints the Bill proposes over the ownership and management of water supply and wastewater services (Section 129)).

Theoretically, in each of these cases (transport and the Local Government Bill) the government has available to it the option of seeking the support of New Zealand First in order to secure a majority in the House. From a Labour Party perspective that is not an attractive option. Both transport and water and wastewater are highly sensitive issues in the Western Bay of Plenty – where Winston Peters' Tauranga seat is located. The Labour Party clearly intends to do what it can to win the Tauranga seat. Given that intention, the option of turning to Winston Peters to rescue the

government on matters of major concern to his own electorate is hardly attractive. Turning the person whom you wish to defeat electorally into a hero in the eyes of his electors just a few months out from the election does not seem to make good political sense.

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## CURRENT STATUTORY CONTEXT

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The new Bill signals a major shift in the statutory context for asset management planning. Currently there is no specific statutory obligation to prepare an asset management plan. Instead, it is well nigh universally recognised that a local authority cannot complete a credible long-term financial strategy if that is not based on good asset management planning. In this sense, therefore, there is arguably an indirect statutory obligation.

However, from the perspective that this paper is concentrating on, the effect of public consultation requirements on asset management planning, the lack of specific provision is significant.

Because the present Local Government Act makes no specific reference to asset management planning – and gives local authorities some discretion over the extent to which they report information in any event – there is very little obligation on local authorities to be explicit with their communities about asset management planning. As a result practices vary quite widely. Some local authorities give their communities good information on a regular basis, while others tell them virtually nothing.

Two examples will make the point. The first is Porirua City Council, whose annual plan for 2001/02 devotes eight pages to a summary of asset management. It provides a concise but clear account of the approach that the Council has taken to asset management in respect of its roading, water, wastewater, and stormwater assets. The material includes an explanation of the approach taken to maintenance/replacement and provides very long-term forecasts of annual expenditure. (A pedantic critic might note that the Council holds other assets whose management it does not report on, but that is a minor point.) That detail is complemented by material in the annual plan itself setting out performance objectives (service levels) in respect of each of these activities.

The second example comes from a local authority that is known to have very serious problems with deferred maintenance in major infrastructure and for whose ratepayers the issue of affordability will be major. Its annual plan for 2001/02 includes the three year update of its long-term financial strategy. Its reference to asset management plans is found in the LTFS section “*Basis of Forecast*” which in respect of the significant activity “Urban Services and Reserves” (which includes water supply, reserves and public conveniences, sewerage and wastewater disposal, stormwater and drainage, and solid waste) simply states:

*“The asset management plans prepared for this activity are the basis for the*

*forecast. It must be recognised that asset management plans are “living documents” which means they will change regularly to take account of Council’s decisions while also guiding Council in its decision. The level of service currently being offered will remain unchanged.”*

This community has little opportunity to engage with its council on issues such as:

- ▶ Asset management objectives.
- ▶ The extent of deferred maintenance.
- ▶ Means for dealing with deferred maintenance – when and who should pay, and how.
- ▶ Options.

Generally, practice in New Zealand local government has improved remarkably over the past decade. In some areas, such as roading, this has been driven by what amounts to central government dictation. In others, it has been encouraged by a combination of the need to develop good, long-term financial strategies and to be able to respond (occasionally to lead) to changing environmental requirements.

At the same time, local authorities have had very considerable latitude in terms of how they deal with asset management – not just in planning, but in implementation. The present Act imposes very little effective restraint on local authorities on how they choose to undertake the ownership and management of major infrastructure – especially in the water and wastewater area. Instead, such restraint as exists has come through the political process. Although effective to a degree, this has not stopped quite major corporatisation (Auckland City), long-term franchising (Papakura), long-term build, own, operate, transfer or similar projects (Wellington, the combined sewerage outfall for Hutt and Upper Hutt Cities), or major changes in charging practices with occasionally controversial outcomes (Tauranga).

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## **THE NEW STATUTORY ENVIRONMENT**

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How will the new Bill affect asset management planning, including the decisions that councils may make about how major assets are owned and managed, and how they go about charging?

### **ASSET MANAGEMENT POLICY**

First, the new Bill includes a formal requirement on councils to prepare an asset management policy. The requirement is simply stated. Section 83(1) requires that:

*“A local authority must, in order to provide predictability and certainty about sources and levels of funding, adopt the funding and financial policies described in subsection 3.”*

Subsection 3 itself lists out a number of different policies local authorities will be required to develop including “an asset management policy”.

Section 85 then spells out what is required in an asset management policy:

*“A policy under section 83(3)(d) must state the local authority’s policies in respect of the management of assets, including –*

- (a) the manner in which the major assets, including their maintenance, renewal, and replacement, are to be managed; and*
- (b) how the asset management implications of changes to service levels and standards are to be assessed and dealt with; and*
- (c) how the local authority will divest itself of surplus assets.”*

At first glance, it probably looks little different from what most local authorities now do. Today, a well prepared asset management plan will deal with maintenance, renewal and replacement, and it will look at implications of changes to service levels and standards. The one new item is the requirement to spell out how the local authority will divest itself of surplus assets. At the moment that is more likely to appear independently in the long-term financial strategy – certainly if assets are of any significance and if the council, in preparing its long-term financial strategy, has genuinely looked at the probability of asset disposals. Perhaps the main immediate implication of Sections 83 and 85 is the requirement to develop a **policy**, which sets the parameters within which a council will develop each of its asset management plans.

## **LONG TERM COUNCIL COMMUNITY PLAN**

Sections 83 and 85, however, are only the beginning of the new environment. To understand the potential impact of public consultation, it is necessary to look at the framework within which those sections are embedded and how that differs from the present.

First, the asset management policy – and other policies – must be prepared and adopted as part of the long-term council community plan (LTCCP), which effectively replaces the long-term financial strategy. This is where differences start to arise. First, the LTCCP (as with the LTFS) must have regard to the principles of financial management. These have changed. The new Bill sets out in Section 82 principles which effectively replace those in Sections 122C-122H of the present Act (principles in the Bill, and the Act respectively, are set out in Appendix 1 of this paper).

Note that, although there is a broad similarity between the two sets of principles, including the continuing reliance on “benefit” as a key decision-making criterion, there are also substantial changes. Section 82 is far less detailed than the combination of Sections 122C-122H. This is partly as a result of a drafting approach that has effectively précised what was in those sections, but it is also (perhaps more significantly) a function of a shift to an outcomes emphasis reflected in two of a number of the considerations Section 82 requires be applied in selecting the

mechanisms that the local authority considers to be appropriate for meeting its revenue and financing needs. These are:

- ▶ The community outcomes for the groups of activities to be funded.
- ▶ The impact of any mix of mechanisms on the social, economic, environmental and cultural well-being of the community.

Both of these provisions tie into the new purpose for local authorities as set out in Section 8 of the Bill, which is:

**“8 Purpose of local authorities**

*The purpose of local authorities is to enable local decision-making, by, and on behalf of, individuals in their communities, to democratically promote and action their social, economic, environmental, and cultural well-being in the present and for the future.”*

Two other changes set the scene for stronger public influence over local authority decision-making. The Bill carries forward in Section 64 much of the content of Section 122I giving local authorities a measure of discretion over the extent to which they comply with the statutory provisions covering preparation of plans, policies, etc. However, there is one potentially significant omission. Section 122I recognises the inherently political nature of council judgements with its provision that *“it shall be the responsibility of each local authority ..... to make judgements concerning the extent to which any provision of (sections dealing with the funding of expenditure needs) is relevant to any particular case **which judgements may reflect the complexity and inherent subjectivity of any benefit allocation or specified outputs and the complexity of the economic, social, and political assessments required in the exercise of political judgement concerning rating.**”* (emphasis added). This provision was a direct quotation from the judgement of the Court of Appeal in Wellington City vs Woolworths. Its removal from the Bill suggests a government intention of limiting the effective discretion of local authorities.

This impression is reinforced by the fact that there is no equivalent in the Bill of Section 122W, Limitation of Review, which provides:

**“122W Limitation of review**

- (1) *This section applies to any challenge, on the ground that section 122C(1)(d) of this Act has not been complied with, to—*
  - (a) *Any allocation of costs proposed in any long-term financial strategy; or*
  - (b) *The selection of any funding mechanism proposed in any funding policy; or*
  - (c) *Any detail of any funding mechanism proposed in any funding policy.*
- (2) *Where any person wishes to make a challenge to which subsection (1) of this section applies, that person shall make that challenge by way of a written submission to the local authority in the course of the special consultative procedure relating to—*
  - (a) *The long-term financial strategy in which the allocation of costs is proposed; or*

- (b) *The funding policy in which the selection of the funding mechanism is proposed; or*
- (c) *Any annual plan containing an outline of—*
  - (i) *The long-term financial strategy referred to in paragraph (a) of this subsection; or*
  - (ii) *The funding policy referred to in paragraph (b) of this subsection.”*

Section 122W is seen as restricting the ability of persons opposed to local authority funding decisions to challenge those in the courts. Its removal suggests that the government believes that resorting to the courts, through judicial review, should be seen as an available instrument to restrain (review) local government decision-making.

There is more to come. First, the provisions regarding the long-term council community plan have much more of an outcome focus than those dealing with the long-term financial strategy (the relevant sections are contained in Appendix 2).

The present requirement is purely instrumental. A local authority is required to prepare a long-term financial strategy. In contrast, the provision in the Bill includes a purpose statement with a strong outcome focus. The long-term council community plan will be required to identify how what the local authority does will contribute to community outcomes.

Of even greater significance is a provision (which also appears in relation to annual plans) that one purpose of the long-term council community plan is to *“provide an opportunity for participation by the public in decision-making on activities to be undertaken by the local authority”*. It is unclear what is meant or intended by *“participation ..... in decision-making”* Local Government New Zealand, in its submission on the Bill dealing with the equivalent requirement in respect of annual plans, stated that:

*“The reference to “participation in decision-making” is ambiguous and is unlikely to be possible in the context of the annual plan, which by definition is prepared and adopted over a short period. We note that “participation” is very different from either “consultation” or “consider views”.”*

The timescale for consultation on an adoption of a long-term council community plan is the same as that for an annual plan so that the concern applies equally.

Local Government New Zealand’s suggestion was that the provision be amended to *“provide an opportunity for the public make its views known on activities undertaken by the local authority”*. That change underscores local government’s concern at the potential impact of introducing participation. A problem that the Select Committee will no doubt recognise is that the suggested alternative is redundant as the mere fact that the plan must be adopted through the special consultative procedure already provides an opportunity for the public to make its views known.

All that can be said at this stage is that, if the participation provision survives, then local government will be in a very different decision-making environment as it is hard



to think of anything that would meet the participation standard that did not, in effect, give the public some form of veto over local government decisions.

Finally, it should also be noted that the new Bill goes into great detail in spelling out the requirements that local authorities face in undertaking the special consultative procedure. Currently, Section 716A simply requires local authorities to give public notice, and such specific notice as the local authority considers appropriate, of the proposal, specify the time people have available in which to make a submission, and ensure that the people making submissions have a reasonable opportunity of being heard.

The new provisions are far more detailed, clearly reflecting a concern that local authorities applying Section 716A have not always been as open and forthright as the government considers desirable.

It is a fair criticism that Section 716A has not worked particularly well. The fundamental problem with this section has not been one of insufficient disclosure of the detail of proposals. Rather it has been with the assumption on which the section is based that the appropriate time to start consultation on something is after the specific proposal has been formulated. The better practice – followed by a number of local authorities – is to start consulting with your community over defining the question that needs to be answered rather than going out both with the question and a suggested answer. This practice has encouraged the cynical view that, too often, local authorities are just going through the motions, consulting on something that is already a fait accompli. Adding to the complexity and compliance costs of precisely the same process of a month long consultation appears to be exactly the wrong solution. Nonetheless, it looks to be the one which local authorities – and their asset management planners – will have to face.

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## **ASSESSMENT AND IMPLICATIONS**

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### **ASSESSMENT**

If the Bill is enacted in more or less its current form, then the planning and consultation framework for local government will change markedly. Amongst the major changes are:

- ▶ A shift to an outcome focus. Here the critical issue will be defining the impact which will result from activity. It will not be sufficient to specify technical standards for the operation (say) of a wastewater system. Instead the core issue will be defining the environmental and other outcomes which will result from the technical solutions proposed.
- ▶ Local authorities will face less protection than is currently the case from judicial review.

- ▶ Achieving compliance with the new provisions will require local authorities to be able to demonstrate that they have been open and transparent in their decision-making processes, and have considered all feasible options<sup>1</sup>.
- ▶ Be able to demonstrate that the interests of different segments within the ratepayer (resident) population have been understood and due provision made for them.

## **IMPLICATIONS**

In an ideal world, the role of the asset manager would be essentially technical – applying best practice, current knowledge and procedures to determining matters such as:

- ▶ Desired performance standards.
- ▶ Different means of achieving those performance standards.
- ▶ Identifying and programming the maintenance and capex expenditure required.
- ▶ Designing and implementing ongoing monitoring systems.
- ▶ Etc.

The reality will be different. Whether we like it or not, much of asset management is concerned with matters that have a high political content. Consider, for example, the growing environmental concern over the way in which water, wastewater and stormwater services are managed. We can expect to see increasing challenge to approaches that have been regarded for many years as standard. For asset managers, the issue they will increasingly face is should this particular solution to providing a service be maintained in its current form or is there a community demand for a different solution? Part of the asset manager's role will be that of taking an open-minded approach to assessing different options including their financial and environmental costs and benefits.

In elaborating on this point, I recall discussions with people intimately involved in the central government political process who saw (and presumably still see) the central problem with dealing with New Zealand's water, wastewater and stormwater as being the influence of engineers – people trained to design and implement large-scale solutions rather than to look for alternative community-based solutions (for example, major reticulation systems versus self-managed community sewerage schemes).

The pressure is not just political in the sense I have outlined above. Increasingly it is also financial, especially in areas where there is significant deferred maintenance or the ecosystem can no longer cope with what has been the traditional means of

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<sup>1</sup> MDL has been undertaking a major project for a local authority which has required the assessment of how well local government has performed in complying with the requirement of Section 122C(1)(c) to assess the benefits and costs of different options before taking any decision with significant financial consequences, including a decision to take no action. The conclusion reached, after considering the way in which this had been handled by a number of different local authorities, and consulting with other parties whose role gives them an overview of compliance, is that, at best, performance has been variable. A less kind judgement would say that too many local authorities, too often, have simply ignored the provision or made a rudimentary attempt at compliance. This will no longer be acceptable.

managing. Here I think particularly of the problem of the “asset rich, income poor” home owner. Typically this is a retired person or couple who may own their home debt-free but who have little income over and above national superannuation. Pressure for people in this situation is increasing and has the potential to become a real constraint on local government discretion, especially under the new Bill.

An immediate question for local authorities will be where responsibility for asset management policy should be placed within the organisation. Under the current Act, it seems appropriate that responsibility for the preparation of asset management plans remains explicitly within that part of the council concerned with asset management as such. This is consistent with the reality that, for the moment, asset management is concerned largely about achieving least cost technical solutions to maintaining the service capability of long-life assets.

An asset management policy will have quite a different focus. Primary considerations will be matters such as the social, environmental, cultural and economic outcomes which should be the objectives of asset management policy. Note that the policy must be prepared and adopted as part of the long-term council community plan, the purposes of which include:

- ▶ Describing the activities of the local authority **and the community outcomes** to which those activities will contribute.
- ▶ Providing a basis for accountability of the local authority to the community.
- ▶ Providing an opportunity for participation by the public in decision-making on activities to be undertaken by the local authority.

This suggests that the policy itself will need to be developed within the council in conjunction with other policies including the long-term council community plan to ensure that there is consistency in the way in which outcomes are stated and in which different council activities are seen as contributing to realising those outcomes.

Asset management policy will face another set of constraints that I have not yet touched on. This is the set of requirements dealing with asset disposals (including Section 129 of the new Bill with its restriction on sale of water supply and sewerage assets or contracting out of management) and the proposed regulatory framework for what will be known as council-controlled organisations.

These will make it quite difficult for those councils which have placed significant infrastructure assets in (say) a local authority trading enterprise to get the commercial advantages they have anticipated. The idea of achieving efficiencies through arms length management is now substantially at risk, especially through Section 49 of the new Bill which proposes that:

*“A local authority that is a shareholder in a council-controlled organisation must have in place a process for approval or endorsement by that local authority of the directions and strategies, planning outcomes and activities, financial and non-financial targets, and outcome measures of that organisation.”*

The potential for political interference, or for that matter deadlock where more than one local authority is involved, is obviously considerable. Indeed, you could argue that one potential benefit from the current debacle within the Alliance Party is that it might produce some useful experience for advising people associated with the governance of Watercare (with its multiple local authority ownership) if Section 49 becomes law.

There is obviously very real scope for the asset management process to become something of a political football, especially in areas where there are significant differences of view within the community on how particular infrastructure should be managed, or particular service needs met.

What to do about it? The best advice I can give is that people with an asset management responsibility take the initiative and start looking at asset management from the community perspective. In other words, start investing significantly in how to understand and manage community expectations and develop processes that will avoid or at the very least minimise potential conflict in areas such as:

- ▶ Objectives.
- ▶ Means.
- ▶ Funding.
- ▶ Management.

None of this is hugely rocket science. It is generally (but not always) outside the day to day experience or responsibility of asset managers. There is no particular reason why it should continue to be so.

It does require the local authority equivalent of what, in the employment arena, is known as “good faith bargaining”. If you accept my advice that the best response to the requirements of the new Bill is to understand how to engage with your community or communities, to try and create some form of ongoing partnership, then accept it with another piece of advice. It needs to be genuine. Remember, because of the history of consultation under the Local Government Act, those people who are likeliest to have views which differ from yours are already quite cynical about the sincerity with which local authorities act and will welcome the extended powers they will have under the new Bill to get involved. In this sense, you will be starting on the back foot. That makes it all the more important to use the time between now and when the Bill comes into effect to plan – both as a sector and as individual councils – for how you can make sure that you can keep a measure of control over your asset management planning.

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# APPENDIX 1

## PRINCIPLES OF FINANCIAL MANAGEMENT

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### LOCAL GOVERNMENT ACT 1974

#### **122C Principles of financial management**

- (1) *Without limiting the provisions of any other enactment relating to the funds and revenues of any local authority, every local authority shall manage its revenues, expenses, assets, liabilities, investments, and financial dealings generally, in accordance with the following principles:*
- (a) *All revenue, expenses, assets, liabilities, and investments are to be managed prudently, in the interests of the district of the local authority or of its inhabitants and ratepayers, and only for lawful purposes:*
  - (b) *Adequate and effective provision for the expenditure needs of the local authority, as identified in the annual plan and the long-term financial strategy, is to be made, as the case may require, in the annual plan and the long-term financial strategy:*
  - (c) *The benefits and costs of different options are to be assessed in determining any long-term financial strategy, funding policy, investment policy, or borrowing management policy, and in making any decision with significant financial consequences (including a decision to take no action):*
  - (d) *The identified expenditure needs of the local authority are to be funded by such lawful funding mechanisms as the local authority considers on reasonable grounds to be appropriate, having regard to the provisions of sections 122D and 122E of this Act and to all other relevant considerations:*
  - (e) *Debt shall be maintained at prudent levels and in accordance with the relevant provisions of the borrowing management policy:*
  - (f) *Except as provided in section 122J of this Act, operating revenues in any financial year shall be set at a level adequate to cover all projected operating expenses.*

#### **122D Local authorities not required to use specific funding mechanisms**

*Nothing in this Part of this Act requires any local authority to adopt any specific allocation of costs or to use any specific funding mechanism to fund any particular expenditure needs of the local authority.*

#### **122E Funding of expenditure needs**

- (1) *In determining how any expenditure needs of the local authority are to be funded, the local authority shall—*
- (a) *Identify the allocation of costs indicated by the application of such one or more of the principles specified in section 122F of this Act as the local authority determines on reasonable grounds to be relevant to those expenditure needs; and*
  - (b) *Determine the extent to which—*
    - (i) *Any modification of the allocation of costs identified under paragraph (a) of this subsection; or*
    - (ii) *Any alternative to the allocation of costs identified under paragraph (a) of this subsection—**is indicated by such one or more of the considerations specified in section 122G of this Act as the local authority determines on reasonable grounds to be relevant to those expenditure needs; and*
  - (c) *Consider, having regard to the matters specified in section 122H of this Act, the extent to which it is practicable and efficient to fund those expenditure needs in a*

*way that achieves, or approximately achieves, the allocation of costs determined pursuant to paragraph (b) of this subsection.*

**122F Principles relating to funding of expenditure needs**

*The principles referred to in section 122E(1)(a) of this Act (which principles are not ranked in order of priority) are—*

- (a) The principle that the costs of any expenditure should be recovered at the time that the benefits of that expenditure accrue:*
- (b) The principle that, to the extent that any expenditure—*
  - (i) Is independent of the number of persons who benefit; or*
  - (ii) Generates benefits that do not accrue to identifiable persons or groups of persons; or*
  - (iii) Generates benefits to the community generally,—*

*the costs of that expenditure should be allocated in a manner consistent with economic efficiency and appropriate to the nature and distribution of the benefits generated, which manner may require the use of rating mechanisms under the Rating Powers Act 1988:*

- (c) The principle that the costs of any expenditure should be recovered from persons or categories of persons in a manner that matches the extent to which the direct benefits of that expenditure accrue to those persons or categories of persons:*
- (d) The principle that the costs of any expenditure to control negative effects that are contributed to by the actions or inaction of any persons or categories of persons should be allocated to those persons or categories of persons in a way that matches the extent to which they contribute to the need for that expenditure.*

**122G Considerations related to funding of expenditure needs**

*The considerations referred to in section 122E(1)(b) of this Act (which considerations are not ranked in order of priority) are—*

- (a) The obligation of the local authority to act in the interests of its residents and ratepayers:*
- (b) The fairness and equity of any allocation of costs:*
- (c) Any lawful policy of the local authority, to the extent that the costs of any expenditure may be allocated in a way that effectively and appropriately promotes that policy:*
- (d) Balancing the avoidance of significant adjustment difficulties for any persons or categories of persons arising from sudden and significant changes in the total costs allocated to those persons or categories of persons, with achieving the indicated allocation of costs at the earliest reasonable date.*

**122H Matters related to mechanisms for funding of expenditure needs**

*The matters referred to in section 122E(1)(c) of this Act are—*

- (a) The extent to which any funding mechanism or combination of funding mechanisms lawfully available to the local authority can achieve any allocation of costs:*
- (b) The efficiency, including the costs, of the different funding mechanisms available to the local authority:*
- (c) The extent to which it is efficient and effective to fund any expenditure need by a funding mechanism that is separate from those used to fund any other expenditure of the local authority:*
- (d) The extent to which different funding mechanisms lawfully available to the local authority will allow persons or categories of persons to whom costs are allocated to identify the expenditure needs to which those costs relate.*

## **LOCAL GOVERNMENT BILL**

### **82 Principles of financial management**

*A local authority must manage its revenues, expenses, assets, liabilities, investments, and financial dealings generally, in accordance with the following principles:*

- (a) the principle that adequate and effective provision for the expenditure needs of the local authority, as identified in its long-term council community plan and its annual plan (where applicable), must be made in its long-term council community plan and annual plan:*
  - (b) the principle that the benefits and costs of different options are to be assessed by the local authority –*
    - (i) in determining any strategy or policy to be included in any long-term council community plan; and*
    - (ii) in making any decision with significant financial consequences (including a decision to take no action):*
  - (c) the principle that the revenue and financing needs of the local authority are to be met by those mechanisms that the local authority considers to be appropriate following consideration of –*
    - (i) the community outcomes for the groups of activities to be funded; and*
    - (ii) the distribution of benefits in relation to each group of activities and the priority between the community as a whole, any identifiable part of the community, and individuals; and*
    - (iii) the period in or over which those benefits are expected to occur; and*
    - (iv) the revenue and financing policies of the local authority; and*
    - (v) the impact of any mix of mechanisms on the social, economic, environmental, and cultural well-being of the community; and*
    - (vi) the effective identification and prioritisation of the use of funds and other resources.*
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## **APPENDIX 2**

# **STATUTORY STATEMENT OF REQUIREMENT TO PREPARE LONG-TERM PLAN**

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### **LOCAL GOVERNMENT ACT 1974**

#### **LONG-TERM FINANCIAL STRATEGY REQUIREMENT**

#### **LTFS**

##### **122K Long-term financial strategy**

- (1) *Every local authority shall, not less than once every 3 years, prepare and, in accordance with the special consultative procedure, adopt a long-term financial strategy.*
- (2) *The long-term financial strategy may be prepared and adopted concurrently with the annual plan.*
- (3) *An outline of the long-term financial strategy shall be included in every annual plan.*
- (4) *The long-term financial strategy shall relate to a period of 10 or more consecutive financial years.*

### **LOCAL GOVERNMENT BILL**

#### **LONG-TERM COUNCIL COMMUNITY PLAN REQUIREMENT**

##### **75 Long-term council community plan**

- (1) *A local authority must, not less than once every 3 years, prepare and, in accordance with the special consultative procedure, adopt a long-term council community plan.*
- (2) *The purpose of a long-term council community plan is to -*
  - (a) *describe the activities of the local authority and the community outcomes to which those activities will contribute; and*
  - (b) *provide integrated decision-making and coordination of the resources of the local authority; and*
  - (c) *provide a medium or long-term focus for the decisions and activities of the local authority; and*
  - (d) *provide a basis for accountability of the local authority to the community; and*
  - (e) *provide an opportunity for participation by the public in decision-making on activities to be undertaken by the local authority.*
- (3) *A long-term council community plan adopted under this section must –*
  - (a) *cover a period of 10 consecutive financial years; and*
  - (b) *include the information required by Part 1 of Schedule 8.*
- (4) *That information -*
  - (a) *must be in detail in relation to the first 3 of the 10 financial years covered by the plan; and*
  - (b) *be prepared in accordance with the provisions of sections 12 and 64.*



## **LOCAL GOVERNMENT BILL FURTHER PROVISIONS**

### **62 Principles of decision-making**

*The principles of decision-making are as follows:*

- (a) a local authority must ensure that its decision-making processes are open and clear:*
- (b) a local authority must, in making significant decisions, identify options for promoting community outcomes and priorities and consider community views:*
- (c) a local authority must, in making significant decisions related to land and bodies of water, take into account the relationship of Maori and their culture and traditions with their ancestral land, water, sites, waahi tapu, valued flora and fauna, and other taonga:*
- (d) a local authority must, in making significant decisions, assess whether the benefits in terms of the social, economic, environmental, and cultural well-being of the community are sustainable:*
- (e) the decisions of a local authority should seek to ensure that community outcomes are promoted in the most integrated and efficient manner possible, in terms of both the financial costs and benefits and the non-financial costs and benefits of different options.*
- (f) the significant proposals, the significant decisions, and the records of the financial and non-financial performance of the local authority should be disclosed so that the decision-making process is clear to both those who make the decisions and the affected parties:*
- (g) when a decision is, or has consequences that will be, inconsistent with any plan required by this Act or any other enactment, or any policy adopted by the local authority, the local authority must, in making the decision, clearly identify the inconsistency and the reasons for its decision:*
- (h) decisions by a local authority about how its statutory duties and responsibilities will be carried out -*
  - (i) must be based on an appropriate assessment of current and future needs in relation to the carrying out of those duties and responsibilities; and*
  - (ii) must be appropriately reflected in the local authority's planning and reporting procedures.*

### **66 Principles of consultation**

- (1) When carrying out any consultation, whether in accordance with the special consultative procedure or otherwise, a local authority must -*
  - (a) take steps to provide appropriate information to the community and any particular communities of interest affected by the matter under consideration; and*
  - (b) take steps to deliver information in ways that are appropriate to particular communities of interest so that information that will enable those communities to participate effectively in the decision-making process is available to those communities; and*
  - (c) have in place appropriate processes for consulting Maori; and*
  - (d) ensure that consultation is meaningful by listening to, and giving due consideration to, views expressed in submissions and other mechanisms that are employed to ascertain community views; and*
  - (e) give every person reasonable opportunity to make written submissions; and*
  - (f) in such manner as the local authority determines, give to those who make submissions the local authority's reasons for its decisions.*
- (2) In carrying out a consultation (other than under the special consultative procedure), a local authority must consider -*
  - (a) whether to acknowledge written submissions; and*
  - (b) whether to hear persons who request to be heard.*

- (3) *Except to the extent that a consultation procedure is prescribed by this Act or any other enactment, a local authority may determine its own consultation procedures.*
- (4) *The form and extent of any consultation procedure referred to in subsection (3) must be in proportion to the significance of the proposal concerned.*