THE LOCAL GOVERNMENT ACT 2002: IMPLICATIONS FOR GOVERNANCE & ECONOMIC DEVELOPMENT

A presentation to participants in the Graduate Diploma on Economic Development
Lincoln

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21 June 2004

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1. LOCAL GOVERNMENT ACT 2002: IMPLICATIONS FOR GOVERNANCE AND ECONOMIC DEVELOPMENT

INTRODUCTION

The brief for this presentation, as is obvious from the title, is to look at the relationship between local government and economic development in the context of the new Local Government Act.

I want to put the context a little wider, reflecting the way in which this type of relationship is thought of internationally. It is increasingly common to draw a distinction between local government (the formal institutions of government functioning at a sub-national level) and local governance. The latter describes the institutions and relationships which provide for the effective governance of a community. It encompasses all those who play a role in determining the directions in which the community might develop, and in taking and implementing the decisions involved in getting there.

This is not just the currently trendy emphasis on "civil society" or "social capital". It is much more the growing realisation that the decisions which guide our futures are not generally taken in remote capital cities but within the networks and institutions that are part of our every day environment.

Public debate in New Zealand has suffered substantially from a failure to draw a distinction between these two different concepts. Instead, much of our public debate seems to be premised on the view that there are really only two approaches to government/governance at the local level; local government as a formal institution of government, or the market.

It is an approach which both overlooks very substantial sources of resource and energy for driving local economies/societies and is also substantially out of step with international experience and developments.

This is reflected in the response, from much of the business sector, to the changes introduced by the Local Government Act 2002. First, much of the business community responded to the Act by treating its apparent emphasis on a power of general competence as a significant extension of the legal powers of local government into new areas of social and welfare activity that were formerly outside their powers. In short, the new Act was seen as a significant threat to ratepayers, especially business ratepayers, by giving local government a mandate to undertake types of expenditure which had previously not been within their legal competence.

That in itself was a fundamental misunderstanding; the previous Local Government Act, amongst its many prescriptive provisions, included very wide ranging powers for local government to support social and welfare expenditure. An apparently little known part of

the Act, part 36 dealing with recreation and community development, included wide ranging powers both for the council to undertake activity itself and to support activity undertaken by others by grants, loans, or guarantees. The reality is that, in this area, the new Act is probably more rather than less restrictive than its predecessor.

Next, the business community has continually shown a lack of understanding of how local government works in a financial sense. It is common to see criticism of councils because rates rise faster than inflation. This overlooks the basic fact that rates are not just a means of funding operating expenditure; they are the only source that local authorities have available to them to raise the equivalent of equity capital for investment in asset creation. At a time when most councils are under pressure for significant investment in major infrastructure, it is hardly surprising that rates increases run ahead of inflation. What is surprising is the apparent ignorance of the way in which rates are actually used.

What I have sought to do with those few comments is highlight the relative ignorance, within the wider community, of the nature and role of local government. In a way, that level of ignorance is hardly surprising. It is a consequence of several readily recognisable factors:

- New Zealand's physical distance from the rest of the world means that we do not have readily available to us comparative examples on which to draw to improve our understanding of what is happening with local government and local governance internationally.
- For whatever reason, actual engagement with local government by the business community in particular, but other sectors of society as well, is quite limited. As one example, we have no equivalent of the quite common practice in North America of major firms and other organisations encouraging rising young executives to get engaged in the governance of their communities. Indeed, we take the contrary approach. Typically, significant employers will discourage their highfliers from such involvement – New Zealand firms and other organisations that do this should reflect on the rubric that we get the quality of government we deserve.
- Traditionally, New Zealand's local government has had a much narrower range of functions and activities than its equivalents in other western democracies. Most importantly, New Zealand local government has had very little involvement in the delivery of significant social or welfare services.
- Historically, New Zealand has been a highly centralised society. We are accustomed to central governments that are committed to micro management of the economy and society and we tend to expect to get our guidance from Wellington – something that has always struck me as rather paradoxical given the generally scathing view that most New Zealanders appear to have both of politicians and of public servants.

Generally, I believe a good case can be made to the effect that New Zealanders' traditional attitudes to local government, and reliance on central government, have largely blinded us to the potential of local government itself as an instrument for local/regional economic and social development. It has also largely prevented us from understanding the growing importance, internationally, both of local governance and of the local/regional community as the focal point for economic and social development.

In the rest of this presentation I first provide a brief overview of current thinking internationally on the significance of the local/regional community in economic development and then look specifically at the new Local Government Act and its implications.

2.   INTERNATIONAL EXPERIENCE

In this part of the presentation I want to look at work from two different institutions responsible for some of the most interesting current evidence based research on regional economic development and then at the work of two leading and, occasionally controversial, American academics.

The two institutions are the Canada West Foundation, a privately funded think tank in Western Canada, and the OECD. The academics are Professor Ed Glaeser of Harvard University, a highly respected urban economist (and occasional consultant to the New Zealand Treasury) and Professor Richard Florida of Carnegie Mellon University, who is best known for his work on the rise of what he terms the creative classes.

CANADA WEST FOUNDATION

Three recent papers published by the Canada West Foundation focus on the role of the city and, particularly, the city-region as the focal point for economic development. Brief extracts from these papers will provide something of a flavour of how that Foundation sees the role of the city in economic (and social) development.

Urban Nation, Federal State : Rethinking Relationships

The focus of this paper is the growing public policy interest in cities as gateways to the new global economy and what it describes as the fundamentally important question *"Why are some cities more successful than others?"* In addressing this, it emphasises not just the increasing role of city-regions (rather than countries) as the gateway to the global economy, but also the importance of the city as a place with which individuals identify. This reflects a common theme in current research that increasingly people see themselves as citizens of their city-region rather than citizens of their country.

> *"As a larger proportion of Canadians comes to live in urban areas, cities are increasingly the place where economic activity takes place. As people are drawn to live in cities by economic opportunities, economic activity is further encouraged by increasing interaction and innovation, which in turn draws more people and enhances the importance of cities as population centres.*
>
> *Globalisation further reinforces the importance of cities in the lives of Canadians (Harmsworth, 2001). While people increasingly relate on a global scale, they "still need a home base, somewhere to raise a family, walk the dog, and talk to friends over a beer, coffee or the fence rather than over the Net" (Gibbins, 2000: 679). Accordingly, the community and its local infrastructure and services play a central role in the daily lives of the vast majority of Canada's citizens. And, with nearly two in three Canadians living in one of the country's largest cities, the local community is most likely a major urban centre.*
>
> *Similarly, globalisation enhances the economic importance of cities. Technology that enables the rapid transmission of capital, raw materials, finished goods, and services around the world has created the possibility for a "global assembly line" (Sassen, 1991: 10), where organisation, management and production can occur in opposite corners of the globe. However, just as people need a home base from which to live their daily lives, a global assembly line requires*

locations from which to manage and co-ordinate these flows of capital, goods and products to enable businesses to interact on a global scale. This process "must necessarily occur in cities" (Sassen, 1991: 4); the necessary services, infrastructure and interpersonal interaction exist only in large centres, making cities points of entry to the global economy for surrounding regions, provinces, and countries."[4]

Glocalism : The Growing Importance of Local Space in the Global Environment

As globalisation becomes more and more a potent force, so does attachment to the local become more important. This paper discusses the importance of place and its implications for the success of city-regions.

"The shrinking of the world reinforces the link between the local and the global. As engagement in a globalized world increases, so too does the importance of the local places where individuals live. In part, this is a reaction to a loss of control on the vast global stage. In the words of Castells (1991:18), "As the world system increases, people in their daily practices and interaction are increasingly local and not increasingly cosmopolitan. In part this is because if you cannot control the world then you could control your neighbourhood."

Identification with a local space in a globalized world provides individuals with "a comfortable place of familiar faces, where one's competence is undisputed and where one does not have to prove it to either oneself or others…" (Hannerz, 1990:248). In a more positive or less reactive sense, the local community becomes the staging ground for global expeditions: "The easy access of the whole world, with just a little time and money, gives new meaning to the need of a subjective center – a home, a community, a locale – from which to move and to which to return and rest" (Strassoldo, 1992:47).

The complexity and uncertainty of engaging in a globalized environment increases the importance of a local place where individuals can find consistency and where they can have some direct involvement in shaping the economic, political and social events in their community. Thus, as the processes of globalisation deepen, intensify and strengthen, individuals will become more attached to the security and certainty of the local versus the uncertain and rapidly changing globalized world. However, this does not mean that local and global orientations are alternatives. Rather, they are two faces of the same glocalism coin, joint products of globalisation."[5]

Interestingly, the Canada West Foundation has also looked extensively at an issue which will increasingly come to the fore in New Zealand as we look at both the structure of local government and its role in economic development. This is the question of the appropriate scale of local government required to be effective for economic development purposes. The Canadian thinking is particularly relevant in the debate which is starting to get underway in Auckland on the "three city" concept – that the region should merge into three cities comprising, broadly, Rodney/North Shore and part of Waitakere; Auckland and the remainder of Waikakere; Manukau and Papakura.

Their comments on the potential benefits or otherwise of amalgamation versus competition make interesting reading as can be seen from the following extracts.

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[4] *"Urban Nation, Federal State: Rethinking Relationships, A Western Cities Project Discussion Paper"*, Loleen Berdahl, Director of Research, and Sophie Sapergia, Intern, Canada West Foundation, December 2001.

[5] *"Glocalism: The Growing Importance of Local Space in the Global Environment"*, Katherine Harmsworth, Canada West Foundation, December 2001.

Building Better Cities : Regional Cooperation in Western Canada

This paper starts with the proposition that in today's global economy it is city-regions – not cities or individual municipalities – that are the units of economic competition. It then explores different options for enabling the effective working of a city-region.

> *"Although few debate the need for regional cooperation and coordination, there are numerous ways that it can be achieved, and debate about the mechanisms can be fierce and controversial. There are three overarching approaches to metropolitan political organisation that need to be highlighted: 1) the public choice approach, in which individual municipal governments retain their autonomy and authority; 2) traditional consolidation approaches (the metropolitan model), which advocate relatively strong metro-wide regional governments, mergers and amalgamations; and 3) new regionalist approaches, which support independent municipalities overlain by a variety of regional institutions and governance options that suit the specific needs and diversity of the city-region. It should be stressed that these overarching schools of thought are not debates about distinct government options. Within each perspective, there is a range of approaches to the organisation of local government."[6]*

The paper's key propositions/findings include:

> *"**Competition in production:** Studies have found that private producers are less expensive than public producers when both public and private producers compete to deliver the same services. McDavid and Laliberte (1999) also found that there is no significant difference in cost for newer services such as recycling programs. However, the conclusion drawn is that over time public service providers lack the same incentives as private contractors to improve efficiency. A competitive environment encourages better and more efficient production of services.*
>
> ***Competition among municipalities.** Competition among local governments is directly related to lower local expenditures. A city-region containing small and medium sized municipalities that not only compete, but also cooperate to deliver services that can offer economies of scale, are the least expensive local governments.*
>
> ***Economic growth.** Although advocates of consolidation argue that amalgamations can enhance economic growth because larger local governments are better able to plan for the entire region, there has not been any evidence that establishes a relationship between the structure of local government and economic growth.*
>
> *In terms of the three approaches to local government arrangements, it is widely agreed that the traditional consolidation approach has few merits. A plethora of research in the United States and internationally has found that larger local government structures (resulting from amalgamations) do not result in increased efficiencies, do not always provide services equally, do not correlate to economic growth, nor automatically solve regional problems.*
>
> *It is striking to note that Canadian public policy debates appear largely uninformed by the decades of research on regional coordination. In Canada, the trend toward regional cooperation is often simplified to a debate focused on the structure of local government: consolidation versus fragmentation. Despite significant evidence that consolidation approaches are not effective, in the 1990s several large-scale amalgamations were*

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[6] *"Building Better Cities : Regional Cooperation in Western Canada"*, Susan McFarlane, Senior Policy Analyst, Canada West Foundation, October 2001.

[7] Ibid

undertaken in Canadian metropolitan regions (e.g. Halifax, Toronto, Ottawa-Carleton, Hamilton-Wentworth). It is apparent that a gap exists between those who advocate structural changes to local governments to solve efficiency woes and academics who have demonstrated that consolidation fails to meet these expectations."[7]

OECD

In 2001 the OECD published an important research publication "Cities and Regions in the New Learning Economy". The paper explored the role of learning in a globalised economy and in its foreword notes that it "analyses the relationships between various forms of learning and economic performance at the regional level and provides rather strong evidence of the importance of individual and firm-level organisational learning for regions' economic performance." Some key points from the paper include:

"The general context for this study is set by the contemporary transition from an industrial to a knowledge-based or learning economy and society (OECD, 1996a). Whilst there remains considerable debate as to the precise nature of the restructuring which is taking place, there is widespread agreement that the production and distribution of knowledge are increasingly significant processes in the determination of economic development and competitiveness. The latter, in turn, are reflected in economic growth, employment change and levels of welfare. This has enormous implications for organisations – firms, educational organisations, R&D institutes, departments and agencies of the state, intermediate organisations – as well as for individuals within education and the labour market (and, indeed, beyond). In short, the capacity of both organisations and individuals to engage successfully in learning processes of a variety of kinds has come to be regarded as a crucial determinant of economic performance (for example, Lundvall and Johnson, 1994)."[8]

"Accordingly, whilst there is abundant evidence of trends towards the globalisation of economic processes (in terms of investment flows, the circulation of goods and services and so forth), this does not imply that the differentiation between localities is disappearing. On the contrary, one of the key questions is how patterns of learning – in a variety of senses – are implicated in the complex interactions between global and local processes. The distinctive characteristics of cities and regions – their economic structures, patterns of social and political relations, cultural make-up – are themselves critical in shaping future patterns of development. Hence, for example, a crucial determinant of a locality's economic trajectory is how far its social institutions, which reflect, at least in part, the legacy of past patterns of economic and social development, permit effective responses to the pressures generated in the new competitive environment. Clearly, some places are better able than others to adapt to the new economic imperatives.

Equally, cities and regions are not simply passive in the face of these new imperatives. There has been a general shift of certain policies from the national to sub-national levels of decision-making in many countries (as, for example, in the case of policies on innovation and labour markets).1 In part, this reflects the necessary efforts of urban and regional authorities to develop initiatives – frequently in conjunction with the private sector – at least to ameliorate the adverse impacts of economic restructuring and to stimulate new forms of economic activity. A number of commentators have argued that it is the regional (or more local) level which offers

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[8] *"Cities and Regions in the New Learning Economy",* Organisation for Economic Cooperation and Development, OECD Publications, 2001.

[9] Ibid

the greatest prospect for devising governance structures able to facilitate and foster the transition to the new patterns of knowledge-based economic activity (for example, Cooke and Morgan, 1998)."[9]

These insights are particularly significant in the context of the ongoing reforms, in New Zealand, of the tertiary sector. In contrast to the direction signalled in the OECD paper, of treating the region as the focal point for the learning required to underpin the knowledge economy, New Zealand has currently adopted a highly centralised model based on micro management through the Tertiary Education Commission with one apparent objective being that of eliminating competition as a means of determining what services are provided within any given region or locality.

GLAESER

Professor Glaeser and colleagues published "Consumer City" in June 2000 as a Harvard Institute of Economic Research discussion paper. The theme of the paper is expressed as *"Urban economics has traditionally viewed cities as having advantages in production and disadvantages in consumption. We argue that the role of urban density and facilitating consumption is extremely important and understudied. As firms become more mobile, the success of cities hinges more and more on cities' role as centres of consumption."* The implication is that increasingly cities compete on their ability to attract and retain individuals with high human capital through the quality and diversity of the consumption experiences they offer. The paper argues that there are four particularly critical urban amenities:

◗ First, and most obvious, is the presence of a rich variety of services and consumer goods. The Internet, and before it the revolution in catalogue sales in the 1980s, means that manufactured goods really are national goods. However, restaurants, theatres, and an attractive mix of local partners are hard to transport and are therefore local goods.

◗ The second amenity is aesthetics and physical setting. Physical attributes of a community that make life more pleasant appear to be increasingly valued by consumers.

◗ The third critical amenity is good public services. Good schools and less crime are also linked with urban growth.

◗ The fourth vital amenity is speed. In a sense, the range of services (and jobs) available in a metropolitan area is a function of the ease with which individuals can move around.

From the research, the writers draw the following conclusion for local governments:

"The implications of this work for local governments, seeking to grow, seem clear. The sovereignty of the consumer is inescapable. Trying to keep manufacturing is probably useless and because of the negative amenities related to manufacturing, possibly even harmful. The key is to attract high human capital consumers. This means providing strong basic services like safe streets and good schools ….. Naturally, policies that ensure an attractive city that is easy to get around will also be beneficial."

Glaeser is not advocating that the successful city is one whose local government provides all the services required by the modern consumer. What he and his colleagues are advocating is that the city (its local government) acts as an enabler. This includes, in

respect of services that have a strong public good component, enabling collective provision. Into this category fall services such as arts and culture, much of recreation, open space and urban design amongst others.

FLORIDA

Richard Florida's early work underpins the analysis from Professor Glaeser and his colleagues. His more recent work on the creative class has become somewhat controversial, with some commentators seeing him almost as an advocate for a publicly funded youth culture rather than as a serious contributor to debate on economic development. His earlier work is somewhat less controversial and rather more focused on the needs of business. In *"The Entrepreneurial Society"*, an address presented at the Conference on Entrepreneurship and Public Policy at the Kennedy School of Government of Harvard University on 10 April 2001, Florida had this to say:

"The rise – or more accurately the resurgence - of entrepreneurship in our society is part of a broader set of organisational, cultural and social forces. Economists have noted the role of ideas and knowledge as the new factor of production, and I want to try to deepen this insight. It's not just ideas and knowledge that are a source of wealth, innovation and productivity. It is people. Where do new ideas come from? They come from people."[10]

"The key to understanding the shift in our society is from a company centered economy to a people-driven economy, end of story. Once you understand that, you can understand everything else. Where do ideas come from? Us. Where does entrepreneurship come from? Us. Places that have the people win; those that don't lose. That's the name of the game.

If you don't believe me, take it from someone you might believe. At the meeting of the National Governors' Association last year, Carly Fiorina, the CEO of Hewlett Packard, stood up and said

> 'We don't want your tax incentives. We don't want your highway interchanges. We don't want more of this physical infrastructure. We will go where the highly skilled people are. Governors, give us more of them.'

The ability to develop attract and retain people – or human capital – is what economic development is all about, whether at the national or regional level."[11]

DO FIRMS THINK THESE ISSUES MATTER?

Is the research beginning to affect the attitudes of corporate executives? The answer appears to be yes. In June 2001 A T Kearney undertook a sample survey of 50 senior executives randomly selected from US based Fortune 1000 companies. (The report of the survey is available at: www.atkearney.com/pdf/eng/Executive_attribute_location_S.pdf) The survey findings report *"Top of the Mind Attributes"* identified by executives as follows:

"The availability of skilled, tech-savvy workers or talent is, by far, the most frequently cited attribute that is considered when evaluating different geographic regions for potentially locating a technology-related business or business unit. Over two-thirds (68%) of the senior executives mentioned talent as one of the key attributes they would consider. Given the skills that are

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[10] *"The Entrepreneurial Society",* Richard Florida, Presented at the Conference on Entrepreneurship and Public Policy, Kennedy School of Government, Harvard University, 10 April 2001.

[11] Ibid

required and the recruiting and training cost that would be needed if the talented work force were not available, the importance of this attribute is not surprising.

Quality of life, access to nearby universities, cost of living, and quality of local transportation networks are secondary factors that influence the selection of a business location. About one-quarter of executives mentioned each of these factors. All of these factors help to attract and retain the required talent to a geographic region, so in many ways they are closely related to the first category.

While the business-driven factors, such as cost of doing business and state and local corporate tax policies were not among the most frequently cited top-of-mind attributes, they were mentioned by several executives. These attributes are probably more relevant in the decision process once the selection of a new location has been narrowed down to a few attractive locations."

3. THE LOCAL GOVERNMENT ACT 2002: ITS IMPLICATIONS FOR ECONOMIC DEVELOPMENT

BACKGROUND TO THE NEW ACT

For the outside observer, the Local Government Act 2002 can best be seen as a major rewrite of what had become a very untidy and eclectic piece of legislation. The principal purpose could be seen as trying to impose some order on a very disorganised legislative framework and, in particular, to do away with a whole series of very detailed and prescriptive powers in favour of more broadbased powers to act on behalf of the community.

It is certainly true that was a significant part of what happened but there were two other and, from an economic development perspective, very important drivers.

The first was public reaction to the attempts, in the 1989 reforms, to make local government more accountable. The second was a consequence of central government's own thinking about how best to deliver the results it wanted from its own activities.

One of the features of the legislative reforms that accompanied the 1989 restructuring of local government was an attempt to make councils more accountable to their communities. Prior to 1989, virtually the only opportunity for input the public had was through the three yearly election process. Those reforms included provision for consultation – what became known as the special consultative procedure – on certain key local government decisions. These included:

- The council's annual plan.
- Other identified major decisions including, for example, the creation of local authority trading enterprises or the sale of significant assets.

Under that legislation, councils were required to put the proposals out for public consideration, to allow at least one month for submissions, provide an opportunity for people who made submissions to appear before the council in support of those submissions, and to make their decisions in an open minded way.

That change raised high expectations; many people thought that, at last, they would be able to influence council decisions. With growing experience of how the process actually worked, people began to see it as very much a false promise. Instead of enabling genuine debate, with council decisions being influenced by what public submitters sought, the process too often began to look like something of a charade, with decisions effectively taken before councils went to public consultation because, by the time they did so, they had already developed a firm proposal and were often effectively committed to its implementation.

Increasingly, central government was getting the message from interested members of the public that local government consultation was giving people the opportunity, at a late

stage of the process, to comment on the council's answer to the council's question when what they really wanted to be consulted about was what the question itself should be.

Alongside this, central government was becoming increasingly focused on how best it could cope with a series of intractable social problems – the so called "wicked issues". Some well known examples included dealing with sub-standard housing in Northland and on the East Cape, delivering effective medical services to disadvantaged low income households (especially Maori and Pacific Island peoples where cultural considerations made different delivery mechanisms an issue), economic development itself and much more.

As it considered how best to engage with these kinds of issues, central government came to recognise that it could not simply mandate from Wellington what the solutions should be. Often, it lacked the detailed local knowledge and information needed to understand exactly the nature of the issue and what options were most likely to succeed. It also lacked the networks and informal understandings about how communities actually functioned (one of the consequences of the virtual withdrawal of much of central government representation from regional New Zealand that was a feature of the reforms of the late 80s and early 90s).

These two strands came together in a government approach to new legislation which would:

- Provide more effective means of making councils accountable to their communities.
- Provide a better means for central government, and other stakeholders, to engage with local government in seeking locality based solutions to the significant social and other issues that confronted central government.

In addition to the focus on greater accountability to communities, and government's own wish to create better means of engaging at a regional/local level, another driver was the increasing interest in sustainability. Reform of the Local Government Act was seen as an opportunity to emphasise principles of sustainability including what is now thought of as a quadruple bottom line approach – social, cultural, environmental and economic.

What this added up to was a rethink of the role of local government and its relationship to central government on the one hand and communities on the other. Against this background LGA 2002 can be seen as one of the most significant constitutional changes in New Zealand in recent years, not because of the power of general competence issue – which in many respects is a non-event – but because of the shift of emphasis in the role of local government. Traditionally, local government has been in the service delivery business across a relatively narrow range of services – infrastructure, recreation and some culture – and local regulation. LGA 2002 quite specifically shifts the focus. The local authority is now the community's principal instrument through which it will pursue its economic, cultural, social and environmental wellbeing for the present and in the future. That is not simply an empowering provision, granting local authorities discretion to consider whether to be involved. It is a statutory obligation requiring local authorities to act in that way reflecting what the then Minister of Local Government had to say in the first reading speech introducing the Bill:

"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."

The starting point for considering the real nature of the changes in LGA 2002 is the redefinition of the role and purpose of local government which is expressed in the Act as:

"11.   Role of local authority
THE ROLE OF A LOCAL AUTHORITY IS TO—

(a)   give effect, in relation to its district or region, to the purpose of local government stated in section 10; and

(b)   perform the duties, and exercise the rights, conferred on it by or under this Act and any other enactment."

The purpose, itself, is stated by Section 10 as:

"10.   Purpose of local government

The purpose of local government is—
(a)   to enable democratic local decision-making and action by, and on behalf of, communities; and

(b)   to promote the social, economic, environmental, and cultural well-being of communities, in the present and for the future.

The emphasis on democratic decision making by, and on behalf of, communities lies at the heart of the changes in the Act, and the opportunities the Act provides for a greater emphasis, amongst other things, on economic development.

First, the Act carries forward the provision in previous legislation for the special consultative procedure but adds, substantially, to the statutory requirements for the way that processes is conducted. The more significant changes are, however, the new rules and requirements for decision making and for community outcomes and the long term council community plan.

In an attempt to provide for greater responsiveness in decision making, sections 76-81 introduced a new statutory code. The basic requirements for a decision are that the local authority must:

- Seek to identify all reasonably practicable options for the achievement of the objective of a decision.
- Assess those options by considering:

- The benefits and costs of each option in terms of the present and future social, economic, environmental, and cultural wellbeing of the district or region.
- The extent to which community outcomes will be promoted or achieved in an integrated and efficient manner by each option.
- The impact of each option on the local authority's capacity to meet present and future needs in relation to any statutory responsibility of the local authority; and
- Any other matters that, in the opinion of the local authority, are relevant.

If any of the "reasonably practicable options" identified by the local authority involves a significant decision in relation to land or a body of water, the local authority must also 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.

In essence, that set of rules requires a local authority to consider all possible aspects of any decision and the impacts it may have.

The new rules do more than just set out the four stages that a council must follow; they also make what looks like potentially significantly provision for community input into the decision making process itself. For the first time it provides the opportunity for input before the council has decided, in principle, what to do. A local authority must, in the course of its decision making process, give consideration to the views and preferences of persons likely to be affected by, or to have an interest in, the matter.

That consideration must be given at each of four separate stages:

- The stage at which the problems and objectives related to the matter are defined.
- The stage at which the options that may be reasonably practicable options of achieving an objective are identified.
- The stage at which reasonably practicable options are assessed and proposals developed.
- The stage at which proposals, which are reasonably practicable options, are adopted.

The Act then goes on to give councils some discretion in how they apply the rules. It states that it is the responsibility of the local authority to make, in its discretion, judgements about how to achieve compliance that is "largely in proportion to the significance of the matters affected by the decision". The discretion applies particularly to:

- The extent to which different options are to be identified and assessed.
- The degree to which benefits and costs are to be quantified.
- The extent and detail of the information to be considered.
- The extent and nature of any written record to be kept of the manner in which it has complied.

In making judgements as to the extent of compliance, the local authority must have regard to the significance[12] of relevant matters and in addition to:

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[12] LGA 2002 requires local authorities to adopt a policy on significance setting out:

- The general principles relating to local authorities set out in section 14 of LGA 2002.
- The extent of the local authority's resources (ie, larger local authorities face a stronger obligation to comply than smaller ones do).
- The extent to which the nature of the decision, or the circumstances in which a decision is taken, allow the local authority scope and opportunity to consider a range of options or the views and preferences of other persons.

These rules are breaking new ground for local authorities. Some may welcome the opportunity for greater public input at earlier stages in their decision making process. Others may be quite resistant, seeking to minimise the extent to which they actually change their practices.

In general terms, the more important (significant) a decision is, the stronger the obligation of a local authority to give consideration to the views and preferences of people likely to be affected by or have an interest in the matter.

LGA 2002 does not spell out how the local authority goes about deciding who those people might be or how it finds out what their views and preferences are. All the Act does is to say that the obligation to consider those views and preferences does not itself require the local authority to undertake any consultation process or procedure.

In the real world, it seems clear that a local authority cannot consider people's views and preferences without first giving them an opportunity to tell the local authority what they are. Stating that the local authority is not obliged to undertake any consultation process or procedure seems only to mean that the local authority does not have to undertake the full blown consultative procedure.

There is little sign yet that either councils, or more importantly key stakeholders in their communities, have realised the full significance of these new rules. My expectation is that, as is typical with major organisational change, we are probably looking at a 3-5 year period before the full implications are really understood and councils, their communities, and key stakeholders in particular, really understand how to work with these rules.

- The local authority's general approach to determining the significance of proposals and decisions in relation to issues, assets, or other matters; and

- Any thresholds, criteria or procedures that are to be used by the local authority in assessing the extent to which issues, proposals, decisions or other matters are significant.

The policy must list the assets considered by the local authority to be strategic assets. These are an asset or group of assets that the local authority needs to retain if it is to maintain its capacity to achieve or promote any outcome that it determines to be important to the current or future wellbeing of the community. It includes assets held to provide affordable housing and any equity securities held in a port company or airport company.

The policy on significance must be adopted through public consultation as part of the long-term council community plan. There is a strong implication that, when making a decision on anything covered by the significance policy, the local authority must provide a full opportunity for public involvement and should not use discretion to minimise the extent to which it goes through each of the steps required by the new decision making rules.

COMMUNITY OUTCOMES

Section 91 of LGA 2002 requires that a local authority must "not less than once every 6 years, carry out a process to identify community outcomes for the intermediate and long-term future of its district or region".

The word "outcomes" can be seen as a bit of policy jargon. What it refers to is the state of affairs that results from an activity or related set of activities. A community outcome for business might be "a business environment in which firms are free to undertake their activity with a minimum of interference from government or local government".

The outcome process is a new and potentially very powerful obligation. The absolutely crucial point is that these are not the local authority's outcomes. Instead, they are the outcomes that the community wants for itself. They cover much more than just those matters for which the local authority is normally responsible and link back to the statutory obligation the local authority has to promote the community's social, cultural, economic and environmental well being.

In a very real sense, how the Act operates is that the community outcomes process is the way in which a community defines what it requires in terms of those four well beings and thus provides the foundation for all the council's activities.

Local government's own guide to community outcomes has this to say:

> Outcomes are a community judgment and therefore belong to the community, not to the local authority. The local authority does *not* have to adopt them in the sense that it would adopt a LTCCP (though the outcomes must be recorded in this document) or an annual plan. The local authority may not necessarily even agree with the outcomes. This is what distinguishes community outcomes from the [council] strategic plans that many readers will be familiar with. The local authority's key decision comes in deciding how it will contribute to the outcomes that the community has identified.

> Although the Act requires only that outcomes be identified, taking a sustainable development approach means that there is little point in identifying outcomes, unless an attempt is made to achieve them. The *community* should play some role in ensuring that the outcomes are achieved. The community outcomes process provides a forum for local authorities (both territorial authorities and regional councils), central government agencies, the community and voluntary sector, Maori, the private sector, and the community as a whole to get together, and decide what is important to the community. Many central government departments and other agencies are likely to use community outcomes as an input to their own planning processes.[13] Local authorities should actively encourage them to do so, but should remember, however, these agencies are not 'bound' by the process just as the local authority is not bound.

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[13] The government has clear expectations that departments will participate in this process.

Most of LGA 2002 is very prescriptive on decision making and consultation. In contrast, it is almost completely lacking in requirements about what the local authority does to identify community outcomes. What the Act does do is:

- Set out the purposes of the identification of community outcomes.[14]

- State that a local authority may decide for itself the process that it is to use to facilitate the identification of community outcomes but that it must, before finally deciding on that process, take steps:

    - To identify, so far as practicable, other organisations and groups capable of influencing either the identification or the promotion of community outcomes; and
    - To secure, if practicable, the agreement of those organisations and groups to the process and to the relationship of the process to any existing and related plans.

It must also ensure that the process encourages the public to contribute to the identification of community outcomes.

As well as the process for identifying outcomes, local authorities are required to monitor, and not less than once every three years, report on the progress made by the community of its district or region in achieving community outcomes.

A council has the discretion to decide for itself how it is to monitor and report but it must seek to secure the agreement of the organisations and groups previously identified to the monitoring and reporting procedures, including the incorporation of any research, monitoring or reporting undertaken by those organisations and groups.

What these new provisions do is set the framework for the development of a community strategic plan. It can be, for example, a means for spelling out what the community seeks in areas such as economic development, the environment for business, education, workforce development, health policy – the list is virtually endless.

LONG TERM COUNCIL COMMUNITY PLAN/ANNUAL PLAN

This is another area of major change.

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[14] These are to:

- Provide opportunities for communities to discuss their desired outcomes in terms of the present and future social, economic, environmental, and cultural wellbeing of the community; and
- To allow communities to discuss the relative importance and priorities of identified outcomes to the present and future social, economic, environmental, and cultural well-being of the community; and
- To provide scope to measure progress towards the achievement of community outcomes; and
- To promote the better co-ordination and application of community resources; and

To inform and guide the setting of priorities in relation to the activities of the local authority and other organisations.

Under LGA 1974, the annual plan was the council's main planning tool. It set out, annually, the various activities the council intended to undertake, how those activities would be funded, and the measures against which to assess council performance.

In practice, subject to the limitations of the special consultative procedure, the annual plan provided an opportunity, once a year, for the public to tell the council what it thought about its proposed activities and the changes it wanted to see.

The long-term financial strategy had a much lower profile. It was prepared once every three years as a ten year forecast of the local authority's expected revenue, expenditure, and financial position, including the activities the local authority intended to fund and the reasons for undertaking those activities.

It was essentially a financial document rather than a planning document in any broad strategic sense.

Under LGA 2002 all that has changed. The long term council community plan is now the principal planning document. Although it is still required to report expected revenue, expenditure, and financial position, its focus is much more on the community's outcomes. Schedule 10 of LGA 2002 which sets out the information to be included in LTCCPs starts with community outcomes requiring that a long-term council community plan must, to the extent determined appropriate by the local authority:

- Describe the community outcomes for the local authority's district or region.
- Describe how the community outcomes have been identified.
- Describe how the local authority will contribute to furthering community outcomes.
- Describe how the community outcomes relate to other key strategic planning documents or processes.
- Outline how the local authority will, to further community outcomes, work with:
    - Other local organisations and regional organisations; and
    - Maori, central government, and non-government organisations; and
    - The private sector:
- State what measures will be used to assess progress towards the achievement of community outcomes:
- State how the local authority will monitor and, not less than once in every 3 years, report on the community's progress towards achieving community outcomes.

At the same time, the Act strengthens what is required on the financial side. The LTCCP must include the council's funding and financial policies, forecast financial statements and a funding impact statement (which covers the revenue and financing mechanisms to be used by the local authority, the level or amount of funds to be produced by each mechanism and details regarding the council's rating system).

Of particular interest to people concerned with economic development, the LTCCP must clearly identify forecasting assumptions and risks underlying the financial estimates and, starting with the LTCCP for the year beginning 1 July 2006, include a report from the local authority's auditor on:

- The extent to which the local authority has complied with the requirements of LGA 2002 in respect of the LTCCP.
- The quality of the information and assumptions underlying the forecast information provided by the LTCCP.

- The extent to which the forecast information and performance measures provide an appropriate framework for the meaningful assessment of the actual levels of surplus provision.

The purpose of the audit requirement is to close a significant gap in LGA 1974 – the absence of any clear discipline requiring councils to ensure that their information was robust and underpinned by appropriate research and documentation, including credible asset management plans and assessments of future service demand.

The annual plan, in contrast, will be a much less important document. In essence, it becomes simply the current year's annual budget and funding impact statement.

In the years (2004 is one) in which councils prepare an LTCCP, there is no obligation to prepare a separate annual plan. Instead, the financial impact statement and funding impact statement in the LTCCP are to be regarded as the annual plan for that year.

The requirements for what must be included in the LTCCP and the annual plan are set out in schedule 10 of LGA 2002. For ease of reference, those requirements are included in the appendix.

WHAT ARE THE IMPLICATIONS FOR ECONOMIC DEVELOPMENT?

The answer to this question depends crucially on how the community outcomes and LTCCP processes are managed in practice.

At the moment, most councils have either just completed or are in the process of completing their first LTCCP (under LGA 2002, councils were required to prepare their first LTCCP in either 2003 or 2004; nine councils took the early option).

The transitional provisions under the Act excused local authorities from going through a full community outcomes process for their first LTCCP. Instead, the Act allowed them to use whatever information they currently held or could put together to develop community outcomes as the basis for their first LTCCP.

An overview of the way in which councils have responded in the first LTCCP round suggests that the discretion given them by the transitional provisions carries with it a very real risk of undermining the intent that lies behind the community outcomes process. Most councils have, in one way or another, treated the community outcomes process as an extension of the type of consultation they were used to undertaking in the lead up to annual plans, or as part of development of the council's own strategic planning.

This is not what the Act appears to require. Instead, it was intended to achieve a major shift away from the council as decision maker to the council as facilitator of a community strategic plan.

Local authorities that have wanted to be proactive about identifying community outcomes have typically tried to find new ways of engaging with the public as a whole through innovative means of encouraging people to provide input, and putting very significant resources into trying to engage with as many people as possible.

Not surprisingly, this approach has tended to result in a considerable measure of agreement on preferred community outcomes. In my view, this should be cause for concern rather than cause for celebration that communities are united in their views of what their major issues really are. That judgement is based on the view that the way the process is currently applied almost inevitably leads to a series of relatively meaningless "motherhood and apple pie" statements about the desirability of such things as a safe and healthy community, a prosperous community, a community in which diversity is recognised and so on.

A recent review undertaken for Local Government New Zealand of the experience of a number of local authorities in developing community outcomes for their first LTCCP reports:

> "A number of participants have commented that the process of identifying such single 'high level' community outcomes has created little '*community conflict*'. There is a strong feeling however that conflict issues will emerge in the process of implementation. This being the case, will meaningful community engagement, relationship and capacity building, only be achieved through ongoing community involvement in the implementation stages?"

In my view what lies behind current experience is a failure to focus closely on the process set out in the legislation, and the potential that it offers.

Section 91[15], dealing with community outcomes, requires a local authority to decide for itself the process it will use to facilitate the identification of community outcomes. However, and crucially, the section also provides that the local authority must, before finally deciding on that process, take steps:

- To identify, so far as practicable, other organisations and groups capable of influencing either the identification or the promotion of community outcomes; and
- To secure if practicable, the agreement of those organisations and groups to the process and to the relationship of the process to any existing and related plans; and
- Must ensure that the process encourages the public to contribute to the identification of community outcomes.

What that section appears to be saying is that the crucial component in the community outcomes process is the engagement of other organisations not just in contributing ideas but in helping determine the process.

Think about what that means. Good strategic planning in any context will focus on the "vital few" issues that really need to be addressed. It will not only set high level outcomes; it will also consider what those mean in practice – is a safe, healthy community one in which no one catches the flu, is it one where people can safely walk the streets at 3.00am in the morning, is it one where older people can safely cross the road at 4.00pm in the afternoon?

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[15] The full text of the section is in the appendix.

Good strategic planning will not only translate the high level vision reflected in broad outcome statements into specifics but will consider the practicability of implementing them.

Think about this in terms of economic development. To provide context, I selected at random the LTCCP of one City Council in an area which has had a strong focus on economic development, Invercargill. Its interim outcome for economic development is described as "we understand that our people aspire to have a robust and innovative economy that provides opportunities for all of us. Southland's economy provides opportunities for innovation and diversification. A robust economy allows for the community to develop".

The two means for implementation were the council's own investment strategy and its funding of Venture Southland.

There is nothing in the outcome statement to identify the critical areas of focus or the strategies that will be needed to bring about effective economic development.

My expectation is that an approach which genuinely engages other organisations and groups in agreeing on the process that ought to be followed for identifying community outcomes will move beyond the "motherhood and apple pie" school of outcomes to identifying specific areas for action. It should for example get clear feedback on what is needed in terms of tertiary education including industry training. More broadly, it should provide a forum for effective dialogue between key stakeholders within the local or regional community, and service providers who currently dictate the type of service that will be provided.

To give two examples, at the moment:

- The Tertiary Education Commission is showing a strong tendency to micro manage the tertiary education sector, with not just outcomes, but services to a fine level of detail being decided in Wellington rather than at a local or regional level.
- The New Zealand Public Health and Disability Act requires District Health Boards to prepare annual and strategic plans and consult the public in doing so. However, it also gives the Minister of Health what amounts to a veto – if something comes through in a draft plan that she does not like, it will be removed before the plan is adopted.

What I hope to see happen in areas such as economic development is key stakeholders such as the business community (but not confined to the business community) getting engaged with their councils about the nature of the process itself and what ought to come out of it. This should be about identifying the "vital few" and looking not just at the high level outcomes but at practical objectives and means of implementation.

This requires the community to understand that the new Local Government Act is not just about the council itself but that it has the potential to change, fundamentally:

- The way our regions and localities are governed.
- The relationship between New Zealand's regions and localities and central government, with central government increasingly required to walk the talk of

partnership – of designing and delivering services to meet local needs and conditions rather than a "one size fits all" Wellington perspective.

On this latter point, it needs to be noted that central government itself is concerned that policy making from the centre does have too much of a "one size fits all" approach. There are quite good reasons why it is difficult for bureaucracies to discriminate as between different localities or regions. There are also understandable gaps in the knowledge and networks that central government's closest advisors will have, simply by virtue of the fact that they live, work and play in an a-typical part of the country.

Finally, I want to make a brief comment on the relationship between regional and local. One important change introduced by LGA 2002 was to restore to regional councils the full suite of powers that district councils hold. In the early 90s regional councils had held broadly the same powers as district councils but a 1992 amendment effectively reduced their role to environmental management and, for some regional councils, other stated activities such as regional parks.

LGA 2002 recognises the need for coordination between regional councils and districts within their region. Councils are required to enter into what is known as a triennial agreement setting out how they will work together and coordinate their various activities. The Act also includes specific measures designed to deal with the situation of a regional council wishing to undertake an activity that is already undertaken by one or more district councils within its region.

Both regional councils and district councils are required to go through the community outcomes/LTCCP process. One especially important issue this raises is the difference between regional outcomes and local outcomes. The legislation does not discriminate, presumably on the basis that the process that individual councils will adopt for determining outcomes will include consideration of whether particular outcomes are primarily regional, primarily local or a mix of the two.

This will matter in a couple of ways. First, central government has made it clear that its preference in dealing with the community outcomes process is to operate at the regional rather than the local level. This fits with the fact that the major social outcomes with which it is concerned tend themselves to have a regional focus – health with the coverage of District Health Boards; tertiary education with the fact that most of our tertiary institutions have a regional or larger catchment, economic development has taken a regional rather than a local focus and so on.

From an economic development perspective, it obviously matters to know whether your focus should be primarily on working with the district council and its outcomes/LTCCP process, or with the regional council. In practice, you will be doing both depending on the outcome concerned.

A good rule of thumb approach to deciding whether something is inherently regional or inherently local is to apply the 80:20 rule. If you believe that 80% or more of the impact or benefit of a particular outcome will be captured at a district level, then you are looking at something which is inherently within the district process. If you think that the area of impact/benefit is larger than the district, then you are looking at a regional level outcome.

As a couple of practical examples from economic development, if you are focused on small business development, then you are probably going to look at district level outcomes, including the regulatory climate, the district council's rating policies and so on. If you are concerned about training issues and want better integration between industry on the one hand and training providers on the other, then you might treat this as a regional level outcome – because the main services you will want to target themselves have more of a regional focus.

This will depend, also, on how stakeholder organisations within your area are structured. If you are in Auckland where the major business interest groups have a regional or semi-regional coverage (the Chambers of Commerce, the Northern Employers and Manufacturers Association) then you are likely to want to see a regional focus on business and related outcomes and persuade the Auckland Regional Council that its community outcomes process should be managed to address these concerns.

If you are in some of New Zealand's smaller centres, you may want to focus on the parochial energy that can be unleashed by dealing at the local level.

The point I want to make is that although there are some general principles, there are no hard and fast rules. What you are really looking at doing is using the community outcomes/LTCCP process as a means of building a coalition around the "vital few" that matter for economic development within the area for which you are responsible.

4. CONCLUSION

LGA 2002 represents one of the most significant constitutional shifts in New Zealand's recent history. It is a recognition that, increasingly, the key decisions affecting our future will be taken and, to an even greater extent, implemented at a regional/local level, rather than nationally.

It is also the first really significant recognition of the difference between local government – in the sense of the institution that holds the formal governmental role – and local governance in the sense of the processes that really set direction, build coalitions, and deliver results at a local or regional level.

Finally, it also represents the opportunity for a new partnership between the local/regional dimension and central government with a very real potential, if the community outcomes/LTCCP process is used strategically, to ensure that central government agencies are driven by local/regional need and circumstance, rather than trying to mould local needs/circumstance to suit national criteria.

APPENDIX: SECTION 91: SCHEDULE 10 REQUIREMENTS FOR THE LTCCP

Section 91: Process for identifying community outcomes

(1)   A local authority must, not less than once every 6 years, carry out a process to identify community outcomes for the intermediate and long-term future of its district or region.

(2)   The purposes of the identification of community outcomes are:

   (a)   To provide opportunities for communities to discuss their desired outcomes in terms of the present and future social, economic, environmental, and cultural wellbeing of the community; and

   (b)   To allow communities to discuss the relative importance and priorities of identified outcomes to the present and future social, economic, environmental, and cultural well-being of the community; and

   (c)   To provide scope to measure progress towards the achievement of community outcomes; and

   (d)   To promote the better co-ordination and application of community resources; and

   (e)   To inform and guide the setting of priorities in relation to the activities of the local authority and other organisations.

(3)   A local authority may decide for itself the process that it is to use to facilitate the identification of community outcomes under subsection (1), but the local authority:

   (a)   Must, before finally deciding on that process, take steps:

      (i)   To identify, so far as practicable, other organisations and groups capable of influencing either the identification or the promotion of community outcomes; and

      (ii)   To secure, if practicable, the agreement of those organisations and groups to the process and to the relationship of the process to any existing and related plans; and

   (b)   Must ensure that the process encourages the public to contribute to the identification of community outcomes.

Schedule 10: Information to be included in Long Term Council Community Plans

Community outcomes

A long-term council community plan must, to the extent determined appropriate by the local authority:

(a)   Describe the community outcomes for the local authority's district or region.

(b)   Describe how the community outcomes have been identified.

(c)   Describe how the local authority will contribute to furthering community outcomes.

(d)   Describe how the community outcomes relate to other key strategic planning documents or processes.

(e)   Outline how the local authority will, to further community outcomes, work with:

   (i)   Other local organisations and regional organisations; and

   (ii)   Maori, central government, and non-government organisations; and

     (iii)   The private sector.

(f)   State what measures will be used to assess progress towards the achievement of community outcomes.

(g)   State how the local authority will monitor and, not less than once in every 3 years, report on the community's progress towards achieving community outcomes.

Group of activities

(1)   A long-term council community plan must, in relation to each group of activities of the local authority:

(a)   Identify the activities within the group of activities.

(b)   Identify the rationale for delivery of the group of activities (including the community outcomes to which the group of activities primarily contributes).

(c)   Outline any significant negative effects that any activity within the group of activities may have on the social, economic, environmental, or cultural well being of the local community.

(d)   Identify the assets or groups of assets required by the group of activities and identify, in relation to those assets or groups of assets:

    (i)   How the local authority will assess and manage the asset management implications of changes to:

        (a)   Demand for, or consumption of, relevant services; and

        (b)   Service provision levels and standards.

    (ii)   What additional asset capacity is estimated to be required in respect of changes to each of the matters described in subparagraph (i).

    (iii)   How the provision of additional asset capacity will be undertaken.

    (iv)   The estimated costs of the provision of additional asset capacity identified under subparagraph (ii), and the division of those costs between each of the matters in respect of which additional capacity is required.

    (v)   How the costs of the provision of additional asset capacity will be met.

    (vi)   How the maintenance, renewal, and replacement of assets will be undertaken.

    (vii) How the costs of the maintenance, renewal, and replacement of assets will be met.

(e)   Include the information specified in subclause (2):

    (i)   In detail in relation to each of the first 3 financial years covered by the plan; and

    (ii)   In outline in relation to each of the subsequent financial years covered by the plan.

(2)   The information referred to in subclause (1)(e) is:

(a)   A statement of the intended levels of service provision for the group of activities, including the performance targets and other measures by which actual levels of service provision may meaningfully be assessed.

(b)   The estimated expenses of achieving and maintaining the identified levels of service provision, including the estimated expenses associated with maintaining the service capacity and integrity of assets.

(c)   A statement of how the expenses are to be met.

(d)   A statement of the estimated revenue levels, the other sources of funds, and the rationale for their selection in terms of section 101(3).