

Summary of the 2010 Amendments to the Local Government Act 2002

1. The Local Government Act 2002 Amendment Act 2010 ("the Act") received royal assent on 26 November 2010. The Act makes several amendments to the Local Government Act 2002 ("the LGA"). Below is an outline of the most significant changes.

Focus on Core Business

2. Section 5 inserts new section 11A which requires Councils to have particular regard to the contribution of core services. The core services listed are:
 - network infrastructure;
 - public transport services;
 - solid waste collection and disposal;
 - the avoidance of mitigation of natural hazards; and
 - libraries, museums, reserves, recreational facilities, and other community infrastructure.
3. These core services do not include many of the existing statutory functions of local government (i.e. Resource Management Act 1991 processing of consents, District and Regional Plan administration and dog control etc).

Performance Measures for Core Services

4. One of the most important changes made by the Act is the requirement that the Secretary for Local Government provide regulations that establish rules specifying performance measures for water supply; sewerage treatment/disposal; stormwater; flood protection and the provision of roads and footpaths (Section 42). These performance measures are applicable to all local authorities. The intention is to enable the public to compare the levels of service provided in relation to any of the infrastructure activities above, by different local authorities.
5. The Act also introduces new provisions requiring local authorities to pay a levy to central government to fund the work undertaken by central government in establishing the rules for the performance measures (Section 40). The Secretary may refund the levy, however this only applies where the amount collected exceeds the actual costs (Section 40). The Act also requires Council controlled organisations delivering any of the five infrastructural services mentioned above, to include specific performance measures and targets in their statement of intent (Section 47).
6. The Act has repealed previous sections in the LGA that specify the information requirements for assessment of water and sanitary services (Section 30).

New Requirements including a Financial Strategy

7. Section 18 provides that the Long Term Plan (note that the Long Term Council Community Plan is renamed) is to include a financial strategy for all the years covered by the Long Term Plan. The financial strategy is to include a statement of the factors expected to have a significant impact on the local authority, including population change and expected capital expenditure. A statement of local authorities "*quantified limits on rates, rates increase, and borrowing*" must be included along with an assessment of the ability to provide existing and future levels of service.

8. The new schedule 10 specifies that capital expenditure for each of the five infrastructure services must be given, as well as a statement of service provision and funding impact statement (these requirements also apply to the annual plan).
9. The long-term and annual plan must now include financial statements for the previous year (new clause 13 and 19 Schedule 10). This numerical information "*must be presented in a way that allows the public to compare the information with the numerical information contained in the forecast financial statements for each of the financial years covered by the plan.*"
10. The long-term and annual plan must identify each reserve fund, explain what it is for and the amount expected to be included or removed from the fund (new clause 16 and 21 Schedule 10).
11. Any internal borrowing is to be described in the annual report (new clause 27, Schedule 10).
12. A statement that all statutory requirements have been complied with is also required in the annual report (new clause 34, Schedule 10).

Simplifying Plans and Consultation Requirements

13. The need to consider the views of the public during the "four stages" of a decision have been deleted (Section 78(2)). This simplifies the process significantly.
14. The new Act reduces the requirements for determining and reporting on community outcomes. For example section 4 amends the definition of "community outcomes" by adding a reference to wellbeing "*in the present and for the future*". Section 13 repeals sections 91 and 92 of the LGA which outlines the process for identifying community outcomes and requires Councils to periodically report on the progress made towards these outcomes.
15. Section 55 enables Councils who are already preparing their three yearly reports and carrying out their six yearly reviews of community outcomes under repealed sections 91 and 92 to abandon this process if they so wish.
16. Some decisions can be made more easily (Section 15 repeals s97(1)(c) and (d), and Section 19 amends s102(4)) including amendment to funding and financial policies via the special consultative procedure rather than being restricted to the Long Term Plan) . The requirement to use the special consultative procedure for a change in delivery of a significant activity is removed (Section 12 repeals s88).
17. Requirements for audit of plans are reduced (Section 14 and 20 amends s103 so that only significant amendments to the revenue and financial policy require audit). The requirements for the liability management policy (Section 21) and investment policy (Section 22) are also reduced. Generally accepted accounting practice is not to apply to the funding impact statement (Section 28 amends s111).
18. An intention to dispose of endowment property no longer needs to be included in the long-term plan (section 34 amends s141).
19. Expenses of community boards can now be funded by a targeted rate or general rate (Section 46).

Pre-Election Report

20. Section 17 inserts new section 99A to require the Chief Executive of each Council to provide a pre-election report to "*provide information to promote public discussion about the issues facing the local authority*". The detail of what the report is to include is found in new Part 4 of Schedule 10. Information on the past three years includes: the funding impact statement; a summary balance sheet; and a statement that compares the actual rates, rate increases, borrowing and returns on investments. For the three years after the election, the report must

include: the funding impact statement; a summary balance sheet of forecast financial statements; and planned major projects (Clause 36 of Schedule 10).

21. The Act has amended the LGA to allow Councils with populations less than 20,000 to provide budgeted financial information for the financial year of the election, rather than unaudited estimates in their pre-election report (Clause 37 of Schedule 10).
22. Section 23 of the Act amends section 106 to require a review of the policy on development contributions or financial contribution at least once every three years.
23. Policies on rates remissions and postponement (section 108-110) are required to be reviewed at least every six years (section 102(3)(a)(b)).

Increased Opportunities for Private Sector Involvement

24. The requirement for a funding and financial policy on partnerships with the private sector has been repealed (Section 19 amends s102(2) and Section 24 repeals s107).
25. Sections 32 and 33 of the Act enable contracts relating to the provision of water services to be increased from 15 years to 35 years. However, section 32 provides that a concession or other franchise agreement with non-local government organisations are prohibited, and the sale of existing local government infrastructure to a private partner is also prohibited.

Conclusion

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

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