

## 12. UPDATE ON THE REVIEW OF THE LOCAL GOVERNMENT ACT 2002 AND THE LOCAL ELECTORAL ACT 2001

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### PURPOSE OF REPORT

1. This report provides a brief summary of the recently published outcomes of the Local Government Commission's review of the Local Government Act 2002 (LGA), and the Local Electoral Act 2001 (LEA).

### EXECUTIVE SUMMARY

2. The Commission was required to undertake the review under section 32 of the LGA, which limited the review to the operation of the LGA and LEA. The Commission had to address the following key questions in its review:
  - Are any of the provisions of the two Acts a barrier to achieving the policy intent? If they are, is legislative amendment required?
  - Are any of the ways that councils are operating and/or interpreting the Acts a barrier to achieving the policy intent? If they are, is the development and dissemination of further good practice guidance appropriate?
  - How responsive and accountable are local government in meeting the present and long-term needs of their communities?
  - How effective are local authorities in performing their role of enabling local decision-making and action, and promoting community well being?
3. In undertaking the review the Commission noted that in some areas the legislation were still in the bedding-in phase. The Commission concluded that the LGA, where properly understood and implemented, generally supports the policy intent of the legislation. For the most part, improvements can be made by way of good practice guidelines and technical changes to give better effect to the policy intent and purpose of the Act.
4. A summary of the key findings and recommendations of the Commission taken from its report is **attached** for information. The key findings relate to:

#### *Local Government Act 2002:*

- Empowerment has not led to a proliferation of new activities.
- The need for and benefits of long-term planning are generally accepted but the quality of documentation needs to be improved. In this regard, there is particular reference to the Long Term Council Community Plan (LTCCP).
- The concept of 'significance' is pivotal to a good understanding of the Act but is often not properly understood.
- The consultation requirements are often not properly understood.
- There is a need for further good practice guidance and training.

#### *Local Electoral Act 2001:*

- An appropriate balance between uniform rules and local diversity has been achieved.
  - There is a need for better balance between fair and effective representation.
  - Recommended enhancements in administration of local elections and polls should proceed.
5. A number of specific legislative amendments are recommended in the Commission's report, along with continued development of good practice guidance.

6. In addition to this review undertaken by the Local Government Commission, the Local Government and Community Branch of the Department of Internal Affairs is undertaking a 10 year evaluation of the Local Government Act, the Local Electoral Act and the Local Government (Rating) Act, expected to be complete by June 2013.

#### **THE COUNCIL'S SUBMISSION – KEY ISSUES**

7. The Council's submission raised a number of issues for consideration by the Commission, but noted four key issues in particular. The Commission's recommendations relating to those key issues are briefly outlined in the following paragraphs.

##### *The need to streamline the LTCCP process*

8. In its submission the Council suggested that there was a need for greater clarity in the LGA, particularly on whether there was a need to consult again on changes made to the LTCCP document after consultation.
9. The Commission recommends a number of specific changes relating to the LTCCP including the development and dissemination of further good practice guidance relating to the process, amendments, and the special consultative procedure.

##### *Clarification of the consultation requirements in the Local Government Act 2002*

10. The Council's submission was that using the Special Consultative Procedure should have some timeframes included so that where an issue has already been consulted on within the last three to five years it does not need to go through the Special Consultative Procedure again.
11. The Commission recommends no change to the special consultative procedure. It does, however, recommend the development and dissemination of good practice guidance on effective consultation practices including appropriate use of the special consultative procedure. Further work is also signalled in monitoring the effectiveness of local authority consultation practices as part of the Department of Internal Affairs evaluation.

##### *Infringement offences – regulations need to be introduced to make the more common/minor offences, infringement offences, as proposed under the Local Government Act 2002, so that enforcement units can increase their effectiveness and productivity*

12. The Council submitted that breaches of bylaws should, where appropriate, be able to be dealt with by way of infringement notice, including amendments to section 259 if necessary.
13. With respect to offences and penalties, the Commission recommends that regulations be made under section 259 of the LGA as soon as practicable to prescribe breaches of bylaws that are infringement offences along with associated infringement fees.

##### *The relationship with central government – government departments need to do more regarding making commitments to work on achieving community outcomes and to help local government implement new legislation*

14. The Council's submission noted that there were often costs imposed on local authorities as a result of legislation and that greater assistance from central government would be helpful with respect to Community Outcomes.
15. The Commission recommends that there be monitoring of central government agency engagement in local community outcomes processes as part of the Department of Internal Affairs 10 year evaluation of local government legislation.

**FINANCIAL IMPLICATIONS**

16. Not applicable.

**Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?**

17.. Not applicable.

**LEGAL CONSIDERATIONS**

18. Not applicable.

**Have you considered the legal implications of the issue under consideration?**

19. Not applicable.

**ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

20. Not applicable.

**Do the recommendations of this report support a level of service or project in the 2006-16 LTCCP?**

21. Not applicable.

**ALIGNMENT WITH STRATEGIES**

22. Not applicable.

**Do the recommendations align with the Council's strategies?**

23. Not applicable.

**CONSULTATION FULFILMENT**

24. Not applicable.

**STAFF RECOMMENDATION**

It is recommended that the Council receive the information in this report on the outcomes of the Local Government Commission's review of the Local Government Act 2002 and Local Electoral Act 2001.