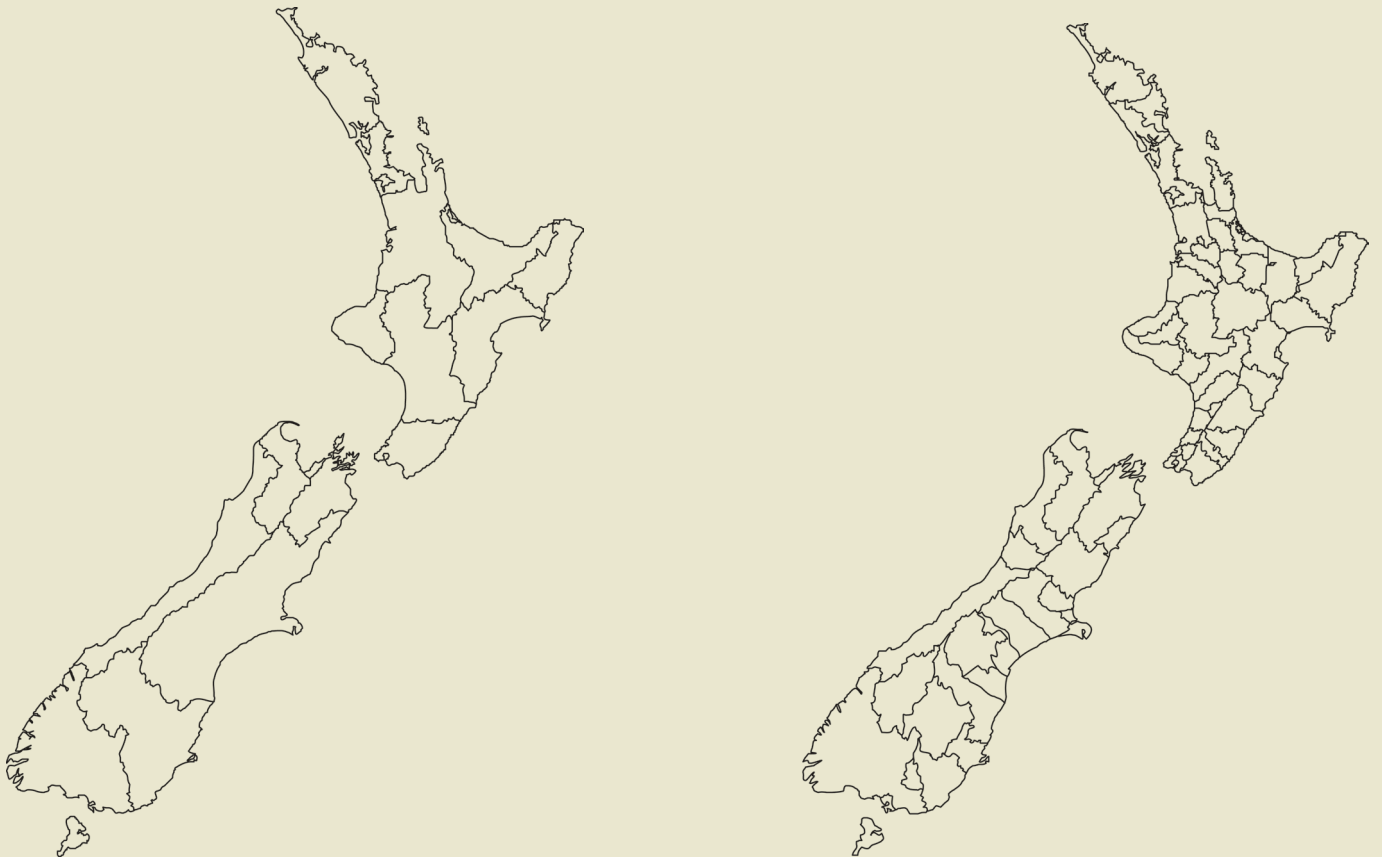




# Better Local Government

March 2012





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## Foreword

*'Better Local Government'* is an eight point reform programme to improve the legislative framework for New Zealand's 78 councils. It will provide better clarity about councils' roles, stronger governance, improved efficiency and more responsible fiscal management.

These local government reforms are part of the Government's broader agenda. We are rebalancing the New Zealand economy away from the increased public spending and debt of the previous decade. We are building a more competitive and productive economy. This requires that both central and local government improve the efficiency of delivering public services. It is also critical to New Zealand's future that both government and councils take a prudent approach to public debt.

The reforms build on the work in our first term that focused on enhanced governance of Auckland. The new Auckland Council poses a challenge for the rest of New Zealand. It is important to this Government that not just Auckland succeeds, but that the whole country grows and prospers. We are extending some of the Auckland governance innovations to all councils and are providing opportunities for other regions to modernise their governance structure.

The specifics of the *'Better Local Government'* work programme are detailed in subsequent sections and include:

1. Refocus the purpose of local government
2. Introduce fiscal responsibility requirements
3. Strengthen council governance provisions
4. Streamline council reorganisation procedures
5. Establish a local government efficiency taskforce
6. Develop a framework for central/local government regulatory roles
7. Investigate the efficiency of local government infrastructure provision
8. Review the use of development contributions

The first four points will be included in legislation which will be introduced to Parliament in May and will be passed by September. This will enable the Local Government Commission to consider council reorganisation proposals in time for the October 2013 local government elections. The subsequent four points will feed into a second Local Government Reform Bill proposed for 2013.

The Government recognises the importance of local democracy and the key role mayors, regional chairs, councillors and board members play in their communities. We welcome Local Government New Zealand's input into the fiscal responsibility requirements, the efficiency taskforce and the work on infrastructure, the regulatory framework and the development levies. This work programme is about central and local government working together in challenging financial times to secure a brighter future for New Zealand.

A handwritten signature in black ink, appearing to read 'Nick Smith'.

Hon Dr Nick Smith  
Minister of Local Government

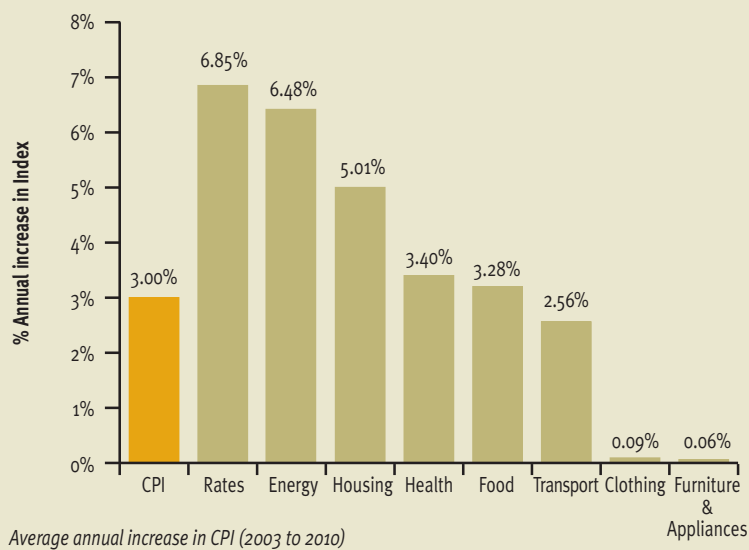




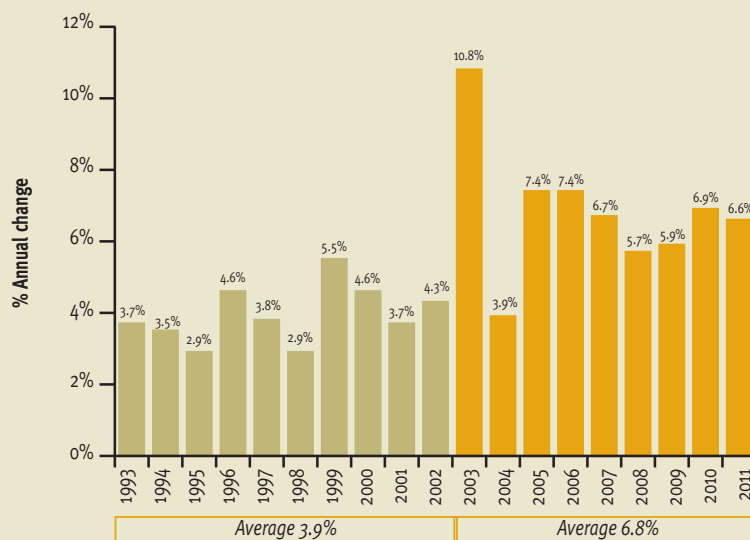
## Background

A decade ago the government rewrote the statutes covering local government, rating and local elections. The most significant change was to give councils broad responsibility covering the social, economic, cultural and environmental wellbeing of communities. This broad mandate in the Local Government Act 2002 was accompanied by extensive new planning, consultation and reporting requirements. Assurances were given that these changes would not add significant costs. The experience has been quite different.

### Rate Increases Relative to Consumer Prices



### Rate Increases 1993–2011

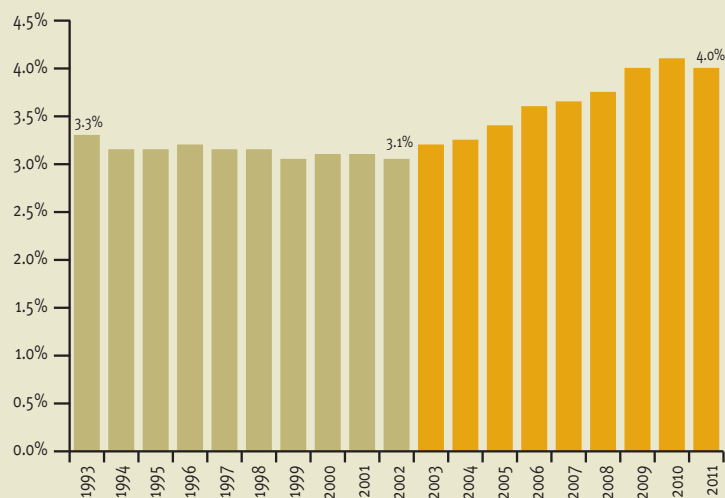


Rates have increased by an average of 6.8% per annum since - more than double the rate of inflation. It is noteworthy that in the preceding decade (1992-2002) rates increased by an average 3.9% per annum, slightly above the inflation rate. If rates had increased at the same rate as the preceding decade, the average household today would be paying \$500 per year less in rates, and the economy as a whole \$1 billion per year less.



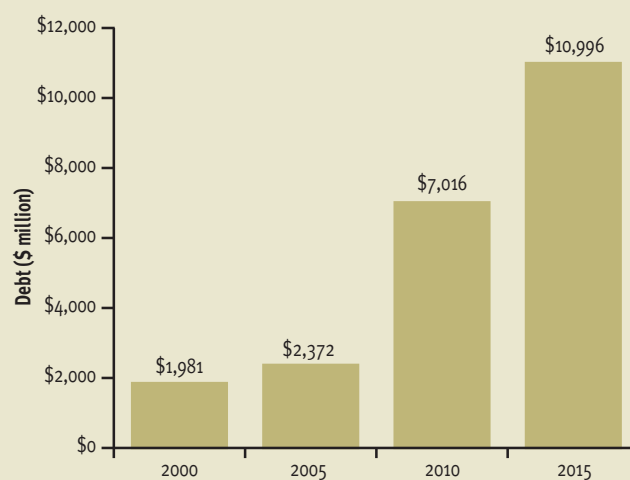
The local government proportion of GDP, that had been stable at about 3%, consistently grew in the years following the 2002 changes to reach 4%. Analysis of direct salary costs shows significant increases after 2002. These rose from \$884 million in 2002 to \$1608 million in 2010, an 86% increase as compared to an increase of 8.7% in the preceding eight years. The latest Labour Cost Index shows local government costs rising over the past three years at nearly double the rate of the core state sector.

### Local Government Expenditure as a Proportion of GDP



Local government debt has quadrupled over the past decade from \$2 billion to \$8 billion. While households and businesses have pulled back on increased debt since the global financial crisis, council borrowing has increased from \$900 million in 2008 to \$1100 million in 2009 and to \$1800 million in 2010. Local government debt is expected to continue to grow.

### Local Government Debt



Source: Local Authority Financial Statistics & analysis of 2009 LTCCP

In February 2011, following the completion of the Auckland Council governance reform, the previous Minister of Local Government, the Hon Rodney Hide, initiated a review of the local government system called 'Smarter Government, Stronger Communities: Towards Better Local Governance and Public Services'. The first report back was due in February 2012 and has been superseded by this 'Better Local Government' work programme.



## 1 Refocus the purpose of local government

The broad purpose of the Local Government Act 2002 covering social, economic, cultural, environment well-being is unrealistic. It creates false expectations about what councils can achieve and confusion over the proper roles with respect to central government and private sector.

The problem is illustrated by councils setting targets for NCEA pass rates, greenhouse gas emission reductions and reduced child abuse in their communities. These are very real and important issues but are not the responsibility of councils.

New Zealanders would be better served by government providing a clearer purpose statement on the role of councils. We need to be cautious of the narrow prescriptive approach of the 1974 Act that had councils needing special parliamentary authority to be allowed to provide an illuminated town clock. A balance is needed that provides greater clarity of councils' role but which recognises the diverse needs of local communities throughout New Zealand.

This Government supports the retention of local government's purpose to enable democratic local decision making and the accountability of councils to their local communities. The provisions to be changed throughout the Act are references to the broad role around social, economic, cultural and environmental well-being. This will be replaced by councils' role being defined as the provision of 'good quality local infrastructure, public services and regulatory functions at the least possible cost to households and business'.

The important words in the new purpose statement are 'local' to differentiate from services better provided by central government and 'public' to clarify that councils should not try to replace services provided by the private sector. The proviso requiring least cost is to emphasize the need for efficiency. The definitions will make it plain that 'least possible cost' means costs now and into the future, to ensure decision makers do not take a narrow, short term view of cost effectiveness.

1. The Local Government Act 2002 will be amended to replace references to the 'social, economic, environmental and cultural well-being of communities' (the four well beings) with a new purpose for councils of 'providing good quality local infrastructure, public services and regulatory functions at the least possible cost to households and business.'



## 2 Introduce fiscal responsibility requirements

Fiscal responsibility is the issue of our age with the global financial crisis, and the debt crisis engulfing some financial companies, banks and countries. Local authorities in some overseas jurisdictions have gone bankrupt but thankfully this has never occurred in New Zealand.

Previous local government legislation placed limits on council borrowing but was repealed. The rapid rise in council expenditure and borrowing over the past decade has seen some councils reach unsustainable levels of debt. The government is proposing new tools for encouraging financial prudence.

The government has agreed to changes to the Public Finance Act, as part of the confidence and supply agreement between ACT and National, to introduce a fiscal responsibility requirement for central government. This will limit expenditure growth to no faster than inflation and population growth excluding extraordinary items such as disaster recovery expenditure. The government is proposing a parallel requirement on councils.

The Local Government Act 2002 will be amended to introduce a provision that enables fiscal responsibility requirements to be set by regulation. The law will require these to be developed in consultation with Local Government New Zealand. These will set benchmarks in respect of income and expenditure, and prudent debt levels. It will include the capability to exclude extraordinary expenditure such as disaster recovery costs.

The new fiscal responsibility requirements will be linked to councils' development of their fiscal strategy. These will be 'soft' caps that are linked to the new graduated powers of intervention requiring information and reports, appointing a crown reviewer, observer or manager, or in extreme circumstances a commissioner or an early election.

2. The Local Government Act 2002 will be amended to provide, by way of regulation, fiscal responsibility requirements in respect of income and expenditure, and prudent debt levels to be developed in consultation with Local Government New Zealand.



## 3 Strengthen council governance provisions

The Government needs to provide additional tools for elected representatives to provide stronger governance and control costs to complement the requirements for greater fiscal responsibility.

### Employment and remuneration policy

A major driver of increased council costs is staffing. Mayors and elected councillors currently have limited tools to control these costs and the Local Government Act 2002 explicitly states this is to be the responsibility of the council's chief executive. In contrast, central government elected representatives have capacity to set staffing caps and remuneration policy. These have been successfully employed in the state sector to pull back labour costs in recent years.

Elected representatives will be specifically empowered to be able to set a council's employment and remuneration policy and will be entitled to put explicit limits on staff numbers. The chief executive would remain the only direct employee of the elected council. The chief executive will also maintain responsibility for employing all other council staff but within the parameters of the new council policy.

There has been significant public concern about some local government chief executives' salaries. This Government believes increased disclosure requirements will help keep costs in check. Councils will be required, as state agencies are, to disclose in their annual reports information on the number of staff employed by salary bands.

3.1 The Local Government Act 2002 will be amended to empower councils to set policy on the number of staff to be employed and overall remuneration policy. Councils' annual reports will be required to include information on staff employed by salary bands.

### Mayoral powers

Mayors are the public face of councils and publicly carry the responsibility for their decisions. The problem is that there is a mismatch in the current local government framework between the high level of public interest, scrutiny and engagement in mayoral elections, where they are elected for an entire city or district, and their limited formal powers over the governing body of a council. Mayors need the capacity to provide clearer and stronger leadership.

This was recognised with the Auckland Council reform. The Local Government (Auckland Council) Act 2009 provides Auckland's mayor with governance powers not available to other mayors, although substantial decision making remains with the full council. It makes good sense for mayors across New Zealand to have similar governance powers.

All mayors will be empowered, from the 2013 local elections, to appoint deputy mayors, to establish committees and to approve committee chairpersons. The role of the mayor will explicitly include leadership over the development of plans, policies and budgets. These provisions will not include regional council chairs, who are not directly elected by voters.

3.2 The Local Government (Auckland Council) Act 2009 mayoral powers in respect of appointing deputy mayors, establishing committees, appointing committee chairpersons and proposing plans and budgets will be extended to all mayors from October 2013.





## Assistance and intervention framework

New Zealand cannot afford to let some councils underperform, mismanage important decisions, or worse, risk failure. There is too much at stake.

The Minister of Local Government currently has the power to review the performance of councils, replace elected councils or call fresh elections. But the focus of these interventions is on crises rather than how to avoid them. We need a simpler, more graduated mechanism, to enable central government to help struggling councils before situations become critical.

There are six powers, based on the notions of assistance and intervention. They would be:

Powers to assist a council:

- Provide Information – a council would be required to provide the Minister with information about a problem, or potential problem, and the steps that are being taken to deal with it.
- Crown Reviewer or Review Team – appointed to investigate a problem or potential problem in a council and make recommendations to the council and the Minister about how to address it.
- Crown Observer(s) – appointed to monitor a council's progress on addressing a problem, assist a council to address a problem (including implementing the recommendations of a Crown Reviewer), and/or recommending to the Minister that he/she take further action.

Powers to intervene in the affairs of a council

- Crown Manager – appointed to direct the operations of a council to the extent necessary to ensure that a council resolves a significant problem, takes action to avoid a potential problem, and/or implements the recommendations of a Crown Reviewer or Crown Observer.
- Commissioner – appointed to perform and exercise a council's responsibilities, duties, and powers, partly or wholly. A variation is appointing a Commissioner and Deputy Commissioners for Disaster Recovery (in the event of, or after, a state of emergency).
- General Election – call a general election of a council.

Threshold tests would apply to each power linked to the new fiscal responsibility requirements. They could be used in other circumstances if requested by a council.

3.3 The Local Government Act (2002) is to be amended to provide a simpler, graduated scale of intervention linked to new fiscal responsibility requirements ranging from the request to provide information, to have a crown reviewer, observer or manager; or in extreme circumstances, commissioners or an early election.



## 4 Streamline council reorganisation procedures

There is the potential to achieve efficiencies and better decision making through structural reforms of councils in some parts of New Zealand. The experience of the reforms in Auckland has been a reduction of 2000 staff with no drop in service standards or levels of infrastructure investment, and savings of \$140 million in its first year.

The current reorganisation process in the Local Government Act 2002 is lengthy, complex and the chances of success are low. Of the 11 proposals considered under the existing provisions only one boundary change and one abolition proposal have been successful.<sup>1</sup>

The new process will be:

1. Community or council prepares an initiative and submits it to the Local Government Commission;
2. The Commission assesses the initiative against statutory criteria and either:
  - a. rejects it; or
  - b. refers it back for further work; or
  - c. proceeds to develop the initiative into a draft proposal;
3. The Commission approves and publishes a draft proposal for consultation;
4. The Commission hears submissions on the draft proposal from affected communities and other interested parties;
5. The Commission determines whether the proposal has sufficient public support and if so, proceeds to a final proposal;
6. If a petition of at least 10% of the affected electors of the proposed new council request a poll, this will be undertaken and determined by a simple majority over the area of the proposed council area;
7. The Commission prepares a final reorganisation scheme that is implemented by Order in Council.

A significant change in the process is that the existing process requires a petition of 10% of electors to initiate a proposal. In the new process this mechanism is used to trigger a poll on a draft proposal for reform. A further change is that, to be successful, a poll requires majority support over the area of the new council, and not of every existing district or city.

The statutory criteria to be used by the Local Government Commission will also be amended. It will specifically require the Commission to consider the benefits of a reform proposal for simplifying planning processes. This change may mean there is more interest in unitary authority models because of their potential to simplify planning processes. Where such a model is proposed, the Commission would need to be satisfied that catchment based flooding and water allocation management issues can be dealt with effectively. The changes will also mean any new unitary authorities, like Auckland, will be simply named the <name of District> Council.

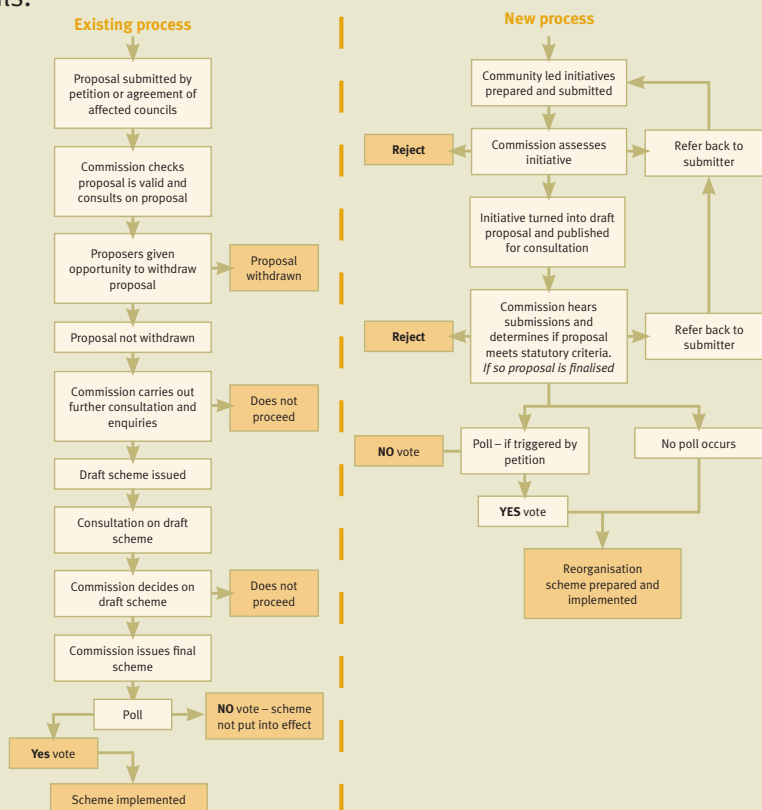
The statutory criteria will also be amended to put greater weight on the benefits of efficiency improvements. It will also require that, to proceed, there must be significant community support in each of the affected territorial authorities. This will ensure that a larger council cannot simply take over a smaller council by weight of numbers, as the Commission will have to be satisfied that there is significant support for reform in the smaller district or city.

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<sup>1</sup> A poll of a union of the Christchurch and Banks Peninsula Councils was initially defeated when Banks Peninsula voted in favour and Christchurch against. Banks Peninsula subsequently voted for its own abolition in 2005.



The Local Government Commission can reject initiatives where it is clear they would not meet the criteria, offer no improvement, are poorly conceived or frivolous, or where the proposal might have a negative consequence for neighbouring councils.



The new process needs to be flexible enough to accommodate all kinds of proposals and solutions, which requires the Local Government Commission to have sufficient powers to consider a wide range of ideas and options and to develop proposals for achieving good local government across the area concerned. The establishment of Māori committees may be considered by the Commission as part of the development of any proposal.

The Commission will have greater powers to deal with transition issues. The Commission will also set deadlines for receiving initiatives and information and will deal with all proposals, including those relating to boundary changes and the transfer of statutory obligations from one council to another.

4.1 The Local Government Act 2002 will be amended to streamline consideration of reorganisation proposals and to extend the criteria to specifically include the benefits to be gained from simplifying planning processes and efficiency improvements.

A significant concern with reorganisation proposals and councils' regular reviews of their representation is the quite rigid existing Local Electoral Act 2001 criteria that make determining ward boundaries in rural communities unworkable. This is because the population formula for large rural areas makes it very difficult for the Local Council Commission to adequately consider communities of interest. The Government intends amending this criteria to give the Commission greater discretion. These changes, announced last year, have been incorporated into these 'Better Local Government' reforms.

4.2 The Local Electoral Act 2001 will be amended to give councils and the Local Government Commission greater flexibility in the determination of ward boundaries in rural areas to take into account communities of interest.



## 5 Establish local government efficiency taskforce

There is significant concern within the local government sector among mayors, councillors and managers about the time and costs associated with the extensive planning, consultation and reporting requirements of the Local Government Act 2002. This concern is shared by many other stakeholders who interact with councils. Documents such as long term and annual plans have become very voluminous to meet compliance requirements.

The question is whether these processes are adding more cost than value, and how they can be simplified. There are also issues about whether the required statutory processes add to the fiscal demands and expectations of councils' limited budgets. This is a complex issue. Councils need to have robust planning and financial systems and need to be accountable to their communities. There is also a need for a fresh look at how the consultation and planning requirements of the Local Government Act 2002 interact with other statutes such as the Resource Management Act 1991 and the Land Transport Management Act 2003 so as to avoid duplication of processes.

The government will establish a Local Government Efficiency Taskforce to address these issues and advise on streamlining and reducing costs of local government planning, consultation, and reporting. The taskforce will include local government and business expertise. The terms of reference will be developed in consultation with Local Government New Zealand and membership nominations are sought by the end of March. The taskforce will be required to report to government by 31 October 2012 with the intention of introducing recommended amendments in a second Local Government Reform Bill in 2013.

5. A Local Government Efficiency Taskforce will be established in consultation with Local Government New Zealand to review the planning, consultation and reporting requirements of the Local Government Act 2002 to report to Government by 31 October 2012

## 6 Develop a framework for central/local government regulatory roles

Local government is involved in many regulatory roles covering building, resource management, food safety, parking, litter, pests, dogs and alcohol but there is no consistent approach to policy making about what regulatory functions are most effectively achieved nationally or locally. There is also a concern in local government that functions are allocated to councils without adequate mechanisms for funding. The issue over what is best regulated at the national and local level is also an important issue for the private sector which, through rates, taxes and fees, fund both. There are opportunities to improve New Zealand's productivity through a more efficient regulatory framework.

The Productivity Commission will undertake a review into the balance of functions allocated to local government by central government and ways to improve regulatory performance in the sector. The terms of reference will be developed by the Government in consultation with the Productivity Commission and Local Government New Zealand. The Commission is expected to complete its work by April 2013 and the review will contribute to the development by central government, in consultation with Local Government New Zealand, of a non-statutory framework for guiding decisions on which regulatory functions are best undertaken by local or central government.

6. The Productivity Commission will undertake a review of the balance of functions allocated to local government by central government and ways to improve regulatory performance in the sector by April 2013. The Government will then, in consultation with Local Government New Zealand, develop a non-statutory framework for guiding decisions on which regulatory functions are best undertaken by local and central government.



## 7 Investigate the efficiency of local government infrastructure provision

A significant cost for local government is the provision of infrastructure such as that covering water, waste water, storm water, roading, footpaths and cycle ways. Work needs to be done on whether the current policy settings ensure the most effective possible provision of these services.

Central government has the benefit of greater flexibility in how it purchases such infrastructure and we should explore whether this should be available to local government. There are proposals for more flexibility, including ideas such as allowing volumetric charging for wastewater. There is also concern that there is a disconnect between the setting of standards for infrastructure and the cost implications of these standards (e.g. drinking water).

An expert advisory group with a mix of financial, local government and engineering expertise will be established to explore these issues and report on ways to better manage the costs of local government infrastructure. The terms of reference and makeup will be developed in consultation with Local Government New Zealand by mid-year with a report by early 2013.

7. Local government infrastructure provisions will be investigated by an expert advisory group to look at how good quality infrastructure to support a growing economy can best be delivered at least cost.

## 8 Review the use of development contributions

Significant changes were made to development contributions in 2002 when the legislative provision was shifted from the Resource Management Act 1991 to the Local Government Act 2002. A consequence of this change was the loss of appeal rights over contributions to the Environment Court. Development contributions rose significantly in the period following these changes from approximately \$100 million per year to \$300 million per year, but have subsequently fallen back in response to the recession.

There is concern about the inconsistency in the application of development contributions and how they are used by councils. There are also questions over whether they are adversely impacting on business and job growth as well as adding to the problems of housing affordability. A balance is needed between ensuring developments do not unfairly impose costs on the rest of the community and ensuring that new jobs and investments are not discouraged.

A review of the policy around development contributions is proposed. The Auditor-General, as part of the standard review of the 2012-2022 long term local government plans, has advised she is specifically going to review council use of development contributions, and report on these later this year. The policy work in this area will follow this work and recommend any changes to be included in the second Local Government Reform Bill intended for 2013.

8. The Government will undertake a review of development contribution policy following the publication of the Auditor-General's report on councils' long term plans later this year.

**NOTE:** The Department of Internal Affairs has removed the tables detailing individual council's rates and debt levels from this website.

While the reported figure of an average of 7 per cent increase in rates nationally is correct there are issues with the data both in terms of its accuracy and in terms of the picture that was being given for some councils.

The *Better Local Government* reform programme is about improving the legislative framework within which Councils operate, it is not about individual councils.

We think it is more useful for both the Department and councils to focus on the bigger picture. It is the Government's job to set the framework for local government and it is that discussion we would like to have with councils.



INTERNAL AFFAIRS



Te Tari Taiwhenua

New Zealand Government