

15 FINANCIAL DECISION MAKING IN LOCAL GOVERNMENT – CONSULTATION, PLANNING, AND ACCOUNTABILITY

Improving financial decision making in local government is a key issue underpinning the Rates Inquiry's terms of reference. In this final chapter we look at how local authorities interact with their communities in making financial decisions and ways in which the planning and accountability mechanisms of local government can be improved.

SUMMARY OF KEY POINTS

15.1 A key challenge facing central government, local government, and communities is developing public understanding of local government financial decision making. Public understanding is vital given that consultation with citizens, in particular in the development of 10-year plans, is a key part of the accountability framework contained in the Local Government Act 2002 (LGA 2002).

15.2 The LGA 2002 sets out consultation principles that are also found in the Resource Management Act 1991 and the Land Transport Management Act 2003. These principles are a reflection of best practice but their mode of application is at the discretion of the local authority.

15.3 The Panel recognises that the planning processes contained in the LGA 2002 have considerable merit in bringing a strategic focus to local authority decision making, highlighting the need for decision making to take account of the views of citizens, and enhancing the transparency of council decision making. However, significant dissatisfaction with the current policy and statutory framework for planning and accountability was expressed by elected members, council staff, and citizens and community groups in submissions and comments to the Panel.

15.4 The current statutory provisions on consultation and planning are onerous, complex, and confusing. They are sometimes implemented in a compliance-based way. Checks and balances that would ensure stronger accountability of councils to citizens, such as giving clear reasons for the basis on which decisions are made or acknowledging the use made of submissions received during the consultation process, are limited and ineffective.

15.5 Most importantly, the special consultative procedure contained within the LGA 2002, which relies heavily on giving public notice of consultation, is not working. The burden of consultation for individual citizens, community groups, elected members, and officers must be reduced by implementing more effective techniques such as focus groups. Better-designed, rather than more, consultation is required.

15.6 Although there are some innovative and positive examples, it is also clear that too often consultation is poorly designed and carried out with the result that the public has little

confidence in councils' financial decision-making processes. The Panel notes that engaging communities on strategic planning and financial decision making can be challenging. However, this underscores the need for councils to have well-qualified staff leading consultation and for councils to ensure that staff involved in consultation have adequate training to ensure that they follow best practice.

15.7 Local government financial decision making is governed by a detailed and complex set of requirements in the LGA 2002, which are designed to facilitate good financial decision making as well as transparency of the basis on which these decisions are made. The Panel considers that these are a positive attempt to improve the quality and availability of information for the average citizen. However, the provisions appear overly prescriptive. In principle they provide extensive information and transparency. In practice the level of detail makes it difficult for the public – and probably most councillors – to comprehend them.

15.8 The Panel considers that changes are needed in the long-term council community plan processes, including the development of three-year indicative budgets, as a bridge between the 10-year long-term plan and the annual plan, and the development of related explicit medium-term financial targets.

15.9 Long-term council community plans also require a much-improved summary document to make them useful to both councillors and citizens.

15.10 The Panel considers that public understanding of rating systems is limited by the lack of adequate and consistent information provided by councils about the amount of rates and rates increases and how the rating burden is spread. More consistency in content and presentation of information would enable citizens to better understand the rating system and the expenditures behind their rates; to analyse changes in their council over time; and to make comparisons with the position in other councils.

15.11 Considerable improvement is also needed in the explanation of the rationale for selection of funding sources in the statement of revenue and financing policies required under the LGA 2002.

15.12 In the longer term a system of performance benchmarking of councils should be developed to better demonstrate council (and council-controlled organisation) performance over time and in comparison with other councils.

15.13 A new set of institutional arrangements is required within central government to ensure that the concerns and perspectives of residents and ratepayers in local government policy development are addressed. The Panel also considers that there is merit in establishing an independent review body with the power to review council financial decisions (in terms of reasonableness and good practice) and make recommendations.

15.14 Improvement is needed in the existing resourcing and capacity of the Department of Internal Affairs in relation to quality of information about the local government sector; guidance for citizens and communities about implementation of legislation; best practice development; and monitoring and review of implementation of local government legislation.

15.15 Improved institutional arrangements are required within central government to strengthen the partnership with local government by ensuring better analysis, coordination, consultation, and guidance in central government decisions that impact on local government.

Key issues

15.16 In considering financial decision making in local government, we first examine the consultation principles of the LGA 2002, which have been incorporated into other statutes that significantly impact on councils, such as the Resource Management Act 1991 and the Land Transport Management Act 2003. This makes it clear that this model of consultation is expected to be widely used within the local government sector. We then consider the impact of these consultation provisions, as well as other provisions of the LGA 2002, such as the requirement to involve the public in identification of community outcomes and to prepare a long-term council community plan (LTCCP).

15.17 The 1989 amendments to the Local Government Act 1974 introduced a new accountability mechanism, the annual planning process involving the special consultative procedure. The 1996 amendments to the Local Government Act strengthened financial planning and reporting, which further strengthened accountability arrangements by requiring public consultation on long-term financial strategies.

15.18 The LGA 2002 includes certain enhancements of the consultation provisions of the 1974 Act in acknowledging the evolving case law and best practice during the 1990s. A task for the Panel was to determine whether the statutory framework is adequate and appropriate or requires modification and whether implementation of the statutory provisions is effective.

Empowerment of local government

15.19 Section 10 of the LGA 2002 highlights the purpose of local government in providing for public involvement in decision making and in promoting well-being of current and future generations, in stating that 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.

15.20 Thus it was intended to strengthen local government. It did so by formalising a broad empowerment for a council to promote the “four well-beings”, in consultation with its communities. This is sometimes described as a power of general competence, although in fact it is more correctly a well-being power. Empowerment was seen as vital if local government was to be a partner of central government in promoting community well-being.

15.21 However, this empowerment has to be set within a sustainable development approach and underpinned by accountability to communities. The Lyons Inquiry in the United Kingdom has identified an emerging role for local government in the 21st century, which is described as a “place-shaping” role, which the Panel views as being encompassed by the four well-beings.

15.22 Given the emphasis on democratic decision making and action by communities, it is unsurprising that communities expect to be involved in decision making. Section 76 and subsequent sections of the Act set out requirements in relation to decision making. Section 78 highlights the need for local authorities to seek community views in relation to decisions, and section 79 provides councils with discretion about how they achieve compliance with the consultation requirements.

15.23 The special consultative procedure, which is described in section 83, involves public notification of the release of a proposal, such as a draft policy or annual plan or LTCCP. The proposal must be publicly available; a period of not less than four weeks must be allowed for interested parties to make written submissions; and councillors must deliberate publicly on written submissions.

15.24 Councils have particular obligations with regard to seeking Māori contributions to decision making. These are set out in section 81:

- (1) A local authority must—
 - (a) establish and maintain processes to provide opportunities for Maori to contribute to the decision-making processes of the local authority; and
 - (b) consider ways in which it may foster the development of Maori capacity to contribute to the decision-making processes of the local authority; and
 - (c) provide relevant information to Maori for the purposes of paragraphs (a) and (b).

Improving consultation

15.25 The sine qua non of empowerment is public consultation. As mentioned above, the 1989 amendments to the Local Government Act 1974 introduced a new annual planning process and a statutory consultative procedure that gave citizens a new opportunity to give feedback annually on local authority spending proposals. The LGA 2002 built on this, with the express intention of strengthening planning and consultation processes. By the end of the 1990s considerable “industry” and community experience had accumulated in relation to annual plans and public consultation. This accumulated experience was reviewed in a 1998 report by the Controller and Auditor-General,²²² which emphasised that consultation should be more user-friendly and that best practice required going beyond the special consultative procedure.

15.26 The 2002 Act differed from the previous legislation in the inclusion of principles of consultation set out in section 82 and paraphrased here:

- Persons who will or may be affected by, or have an interest in, the decision or matter should be provided by councils with reasonable access to relevant information in a manner and format that is appropriate to the preferences and needs of those persons.
- They should be encouraged by the council to present their views.
- In doing so, they should be given clear information by the council concerning the purpose of the consultation and the scope of the decisions to be taken.
- They should be provided by the council with a reasonable opportunity to present those views in a manner and format that is appropriate to their preferences and needs.
- The council should receive these views with an open mind and give them due consideration.
- They should be provided by the local council with information concerning both the relevant decisions and the reasons for those decisions.

A council must also ensure that it has in place processes for consulting with Māori in accordance with these principles.

15.27 Sections 76–78 of the LGA 2002 set out substantial information requirements in relation to decision making. Section 77 requires councils to identify all reasonably practicable options for achieving the objectives of a decision and to apply a cost-benefit analysis to those options in terms of the present and future social, economic, environmental, and cultural well-being of the district or region; the extent to which each option contributes to the community outcomes; and certain other considerations. Section 77 also emphasises the need to take into account the relationship of Māori and their culture and traditional land, water, sites, wāhi tapu, valued flora and fauna, and other

222 Controller and Auditor-General, *Public Consultation and Decision-making in Local Government*, 1998.

taonga if the options being considered involve a significant decision in relation to land or a body of water.

15.28 The Panel strongly supports the thrust of the legislation to improve the quality of decision making. However, it became increasingly clear during the course of the Rates Inquiry that the statutory provisions are excessively detailed, complex, and potentially confusing for the various parties involved (citizens, other stakeholders, and councils).

15.29 Although the consultation principles have much to commend them, and some councils have demonstrated a commitment to implementing these as the law intends, it is clear that the standards achieved in consultation have not always been consistent with good practice because councils are also given significant discretion in applying these principles. Discretion can be used without justification or explanation; in other words, councils do not have to explain any departures from the principles. While discretion can be seen as appropriate to avoid being overly prescriptive and imposing a “one size fits all” form of consultation, nevertheless the outcome is that those being consulted have very few statutory rights. The main provision of the LGA 2002 for those being consulted is that any person who makes a submission under the special consultative procedure is sent a written notice acknowledging receipt of their submission and is given a reasonable opportunity to be heard by the council.

15.30 There are two key ways in which the Panel considers that consultation in relation to financial decision making can be improved. First, councils should make greater use of mechanisms (such as deliberative opinion panels) that allow them to obtain an informed and broadly representative view rather than relying too heavily on the special consultative procedure. This would result in a more streamlined and cost-effective approach to consultation, with better quality input. Second, councils should ensure that people who make submissions using the special consultative procedure receive meaningful feedback on their input. It is recognised in the LGA 2002 that one of the principles of consultation is that people who present their views to councils during consultation are given information about council’s decisions. However, it is clear that current practice by many councils is not achieving the intent of this principle. As a result, those who make submissions or participate in other consultative processes often feel that their views are ignored.

15.31 The Panel considers that consultation must be more meaningful but more streamlined so that it is less of a burden for councils, council staff, and the public. The special consultative procedure has two key merits: it is open through being publicly notified, and anyone can make submissions. However, as a strategy for enhancing public participation or for obtaining well-informed input, the special consultative procedure has value only if there is very extensive advertising about the opportunity to make submissions (utilising not only the newspaper/print media but also other media such as regional television) and very comprehensive dissemination of information. These take a lot of resources, which are finite, and should be directed towards the most productive forms of citizen engagement. Such forms of engagement may take the form of focus groups, people’s panels, and so on, which contain certain representative samples of the population. The Panel notes that some councils have been innovative and have undertaken very successful consultation exercises both in relation to specific decisions and strategic issues (such as community outcomes identification). There are some good practice resources available from Local Government New Zealand and other professional bodies. These resources need to be more widely utilised and updated to reflect evolving good practice.

15.32 The Panel notes that there is a similar challenge facing other countries that seek to foster collaborative planning and decision making in local government. As the Lyons Inquiry concluded,

Councils need to be selective with their resources with a focus on what matters, avoid allowing statutory requirements for consultation to dictate their approach

and to accord higher status to the skills needed by officers and councillors to engage effectively with the public.²²³

15.33 In the case of the LTCCP, the key mechanism for improving accountability appears to be the audit carried out by the Auditor-General. Yet this can focus only at a high level on the quality of the information and does not look in detail at the consultation practices used. The Panel notes that the Auditor-General in a recent report has expressed some concerns about the quality of the information provided in the LTCCPs and, in particular, the proposal summary document, which is a vital tool for communication and consultation.²²⁴

15.34 The statutory provisions for consultation and decision making are particularly burdensome for Māori. Because of the spread location of their land, they are often consulted by several councils, each with its own consultation style and approach but further shaped by a history of often very unsatisfactory relationships between predominantly Pākehā elected members and council staff who lack knowledge of tikanga Māori and local history. The Panel considers that much greater emphasis must be placed by local authorities on capacity-building to ensure that elected members and staff have the appropriate skills for engaging Māori in financial and other decision making.

15.35 The Panel notes that citizen dissatisfaction with council decision making is not new or unexpected. However, it is clear that consultation has increasingly been elevated as an input into decision making since the public management reforms of the late 1980s and 1990s, as reflected in the consultation principles and decision-making provisions of the LGA 2002. Hence public expectations have been significantly heightened. This is similar to trends in other western liberal democracies. The Panel considers it a matter of some urgency that the legislative provisions and their implementation be reviewed.

15.36 The Panel is aware of the operational review of the LGA 2002 being conducted by the Local Government Commission, as required by section 32 of the LGA 2002, which is to be completed by June 2008. Although this will produce useful insights, the Panel is concerned that the review may be constrained by its focus on operational matters rather than on the broader issues of accountability. Therefore, the Panel considers that a comprehensive review is needed.

15.37 There should also be monitoring and review by external agencies (in particular, the Auditor-General and the Department of Internal Affairs (DIA)) of the way in which consultation is working.

15.38 Although there are some areas where relationships are positive, the Panel encountered extensive examples of poor relationships between Māori and local government. The shortcomings of the relationship have been well documented and are further discussed in Chapter 13 of this report. Exacerbating the situation is the fact that Māori landowners often deal with several different local authorities, as mentioned above.

Recommendations

71 That after the current operational review of the Local Government Act 2002 by the Local Government Commission, a further independent review of the consultation and decision-making provisions of the Act be conducted with a view to substantially streamlining the legislative provisions and providing for greater accountability.

223 Lyons, Sir Michael, Lyons Inquiry into Local Government, *Place-shaping: A Shared Ambition for the Future of Local Government*, The Stationery Office, London, 2007, p. 19.

224 Controller and Auditor-General, *Matters arising from the 2006-16 Long-Term Council Community Plans*, 2007, AJHR, B.29[07c].

- 72 That the Office of the Auditor-General and the Department of Internal Affairs monitor and review the way consultation is working.
- 73 That section 82 of the Local Government Act 2002 be amended to limit council discretion in the means of applying the consultation principles.
- 74 That the current consultation processes be replaced by more selective and streamlined consultation arrangements.
- 75 That local authorities place more emphasis on building capacity among elected members and council staff to engage with Māori in their decision making.

Improving accountability

15.39 The broadly empowering LGA 2002 and the significant autonomy and flexibilities in the Local Government (Rating) Act 2002 (LGRA) heighten the responsibilities of elected members to demonstrate accountability to residents. The submissions made to the Panel by many citizens, peak bodies of key sector groups, and community groups generally highlight dissatisfaction with the adequacy of this accountability. The Panel considers that improvement can be achieved through various mechanisms including:

- better dissemination of “best practice”, including through greater use of standardised policy templates and guidance for implementation
- modifications to existing statutory provisions for consultation (as discussed above)
- improvements in the long-term planning process
- improved reporting on proposed levels of rates and rate increases
- consistency and clarity in rates assessment notices
- greater clarity and explanation in the statement of revenue and financing policy
- setting of explicit and clear medium-term financial targets by each council
- improved reporting on performance, including benchmarking, within a council over time and comparisons with other councils
- explicit guidelines about engagement with Māori
- training of elected members, including in relation to engagement with Māori
- public education
- monitoring and review of council decisions by external agencies (in particular, the Office of the Auditor-General and DIA as the ministry responsible for local government policy)
- monitoring the overall performance of councils and of the operations of the LGA 2002 and the LGRA.

Each of these is discussed in more detail below.

Dissemination of best practice

15.40 Submissions and comments to the Panel and the Panel’s research indicate that there were significant limitations in public education about the new legislation. The “Know How” guides developed by the New Zealand Society of Local Government Managers (SOLGM), Local

Government New Zealand (LGNZ), and DIA, although useful, were focused on the needs of council staff and councillors rather than on assisting public understanding. Information provided on the DIA website, which is the main source of public education, appears little used. The adequacy of the Know How guides and DIA website for meeting the particular information requirements of Māori is even more limited.

15.41 Hence there is poor understanding about the role of local government, its financial decision making, its funding mechanisms, the opportunities for public participation, and the accountability arrangements.

Improvements in the LTCCP and annual plan processes

15.42 A key feature of the LGA 2002 was the introduction of the community outcomes process and the requirement to prepare long-term (and annual) plans for the community. Previously strategic planning was not required, although many local authorities had prepared a strategic plan, either for the council or for the community.

15.43 The LTCCP is a requirement of section 93 of the LGA 2002, with its detailed contents being set out in Schedule 10 of the Act. In essence, it is a detailed work plan covering intended council revenues and expenditures over a 10-year period. It describes the activities of the council and the community outcomes to which they relate. It also includes forecast financial statements for each of the 10 years. The LTCCP is both an internal council planning document and a document for accountability to the public.

15.44 The first set of LTCCPs covered the period 2004–14. These have now been updated by LTCCPs covering the period 2006–16. The LTCCP is required to be revised every three years, although it may be updated at any time, such as when a new council is elected, provided that required consultation processes are observed.

15.45 The LTCCPs reflect various policies that councils must adopt, which are reflected in the revenue and expenditure components of the LTCCP and also referred to in the LTCCP itself. These include the revenue and funding policy and the funding impact statement, which between them set out such issues as the amount of revenue to be raised from different sources, including how capital assets are to be financed and how the flexible rating powers given by the LGRA are to be used. Asset management plans guide the capital expenditure and related maintenance and operating expenditures.

15.46 The annual plan, required under section 95 of the LGA 2002, is drawn from the LTCCP for the relevant year and forms the basis for the annual budget and rate determination exercise. The annual plan also includes the annual funding impact statement. It also includes the projected levels of service performance drawn from the LTCCP.

15.47 The Panel considers that the concept of a 10-year plan is sound and notes that the LTCCPs have been important in making transparent forecast council expenditures and forecast levels of rate increases. The Panel considers that the concepts, if properly applied, reflect good management practice and thus does not accept the argument advanced in some council submissions that LTCCPs represent an “unfunded mandate”. (See Chapter 8 also for discussion of unfunded mandates.) The Panel considers that LTCCPs should not be prepared merely to comply with the Act. Rather, they should be the council’s own key planning document and be capable of being readily produced from its own planning system. Councils already having sound planning mechanisms in place appear to have found the preparation of such a detailed plan less onerous than those with weaker planning mechanisms. Nevertheless, the Panel accepts that the level of detail required makes the preparation

of the plan a costly exercise. It notes submissions from various smaller councils on the costs they have incurred in the preparation of the LTCCP.²²⁵

15.48 The LTCCP, as a complex and relatively new type of document, can be regarded as still in a state of transition or as “work in progress”. However, the recent report of the Auditor-General on the 2006–16 LTCCPs²²⁶ indicates general improvement in the quality of this second set of LTCCPs compared with his first report, which covered LTCCPs for the period 2004–14.

15.49 The Panel has the following additional observations concerning LTCCPs and the annual plan:

- Most LTCCPs are several hundred pages in length. The Auditor-General in his first report on the LTCCPs in 2005 noted that a longstanding concern with meeting the statutory requirements for public consultation on annual plans (and now LTCCPs) and for using annual reports was the size of these documents, which reduced their usefulness to many members of the public. Despite this, the LTCCPs for 2006–16 were unprecedented in length. The Act requires a summary document to be produced as the basis for informed consultation with the public. However, the Auditor-General’s recent report comments on the apparent low priority given by councils to the preparation of the LTCCP summary. The report also comments that many summaries were prepared late, almost as an afterthought, and do not focus on key strategic issues or provide any suggested trade-offs.
- A 10-year planning horizon is a relatively long one. For example, central government does not formally plan its expenditures beyond five years. It can be noted that this also makes it difficult for councils to incorporate revenue transfers from the Government beyond year 5 of their LTCCP.
- Even in a mature planning system – and the LTCCP process can be said to be still at an immature state – it is difficult to attach much precision to figures 10 years into the future.
- The level of prescribed standard detail is a likely reason why some councils regard it as a compliance or “tick the box” exercise, rather than a council-owned planning document.
- If planning is robustly undertaken, year 2 of the LTCCP should roll over to become the starting point of the annual plan for the next year of operation, and so on. In practice this does not appear to be happening because significant changes are often made in annual plans from what was previously year 2 of the LTCCP. Thus there is a dis-connect between the LTCCP and the annual plan, with, in some cases, significant variations in 2007/08 rating or expenditure levels compared with those previously set out for that year in the LTCCP.
- There is, therefore, a strong case for focusing in more detail on the first three years of the LTCCP for which explicit financial targets should be set as discussed below, so that the LTCCP for those years becomes a medium-term expenditure plan, rolling over into the annual plan, with years 4–10 realistically regarded as being less firm. This would not be a new system but would roll out automatically from the LTCCP, although it could be published as a separate document.
- Related to the above point there is a case for relating the LTCCP more closely to the three-year electoral cycle, which might therefore be reflected in a three-year budget horizon. The Panel suggests that early in its term a council would present a three-year

225 For example, Horizons Regional Council [S553] states that its LTCCP cost \$1 million to prepare.

226 Controller and Auditor-General, *Matters arising from the 2006-16 Long-Term Council Community Plans*, 2007, AJHR, B.29[07c].

indicative budget, drawn from the LTCCP. This may involve the need to first amend the LTCCP. But the first opportunity to have input is currently in the draft annual plan, for which discussions begin around February. The LTCCP system does not seem to allow for a new council elected with a mandate for a new agenda to easily implement such an agenda. Current arrangements create the impression that, while councils may come and go, the LTCCP goes on for ever.

- There is a tension that needs to be resolved between the LTCCP’s apparent dual role of a detailed *operating* or *work plan* and a more *strategic planning* exercise. The LTCCP appears to be attempting to achieve both, and not adequately succeeding at either. It appears that some councils do not adequately understand strategic planning concepts, which involve setting out key options or choices which the council can make.
- There is insufficient financial and performance information about council-controlled organisations (CCOs) in the LTCCP. “Key performance targets and other measures” are required to be included, but it is optional to include their full financial information. There appears to be a strong case for consolidating all CCO information into the LTCCP, given that CCOs are required to be included in the council’s annual consolidated financial statements.

15.50 Finally, it can be noted that LTCCPs are required to be audited by the Auditor-General. The audit requirement was inserted into the LGA 2002 (as section 94) by Parliament because of the significance of the LTCCP and the perceived need for some independent assurance of their quality. The Auditor-General is required to examine the quality of the underlying information (of which council asset management plans are a significant component) and assumptions and the extent to which the forecast information and performance measures provide a meaningful assessment of the actual level of service provision. The overall audit opinion is based on whether the LTCCP provides a reasonable basis for long-term integrated decision making; for participation in decision making by the public; and for subsequent accountability to the community. This includes an assessment of whether the LTCCP reflects policies that are financially prudent. The Auditor-General’s report on the LTCCPs (2006–16) was tabled in June 2007.²²⁷ For the 2006–16 LTCCPs the Auditor-General issued four adverse audit opinions relating to LTCCPs that were considered to contain inadequate information or to reflect overall financial policies that are not prudent.

15.51 There are mixed views of the value of this audit. Some councils perceive it as both costly and adding little value. Others perceive value in an independent review of their data and planning mechanisms. The Panel considers that in the medium term the audit of LTCCPs should remain, because it has assisted in improving the quality of LTCCPs and established certain standards. However, in the longer term, as the LTCCP process becomes better understood, and as council information bases improve, consideration should be given to removing this audit requirement. Instead, the focus of the Auditor-General’s reporting might shift more to guidance reports and good practice guides. For example, the Panel notes that it is nearly a decade since any guidance on public consultation was published.

Recommendations

76 That within the LTCCP framework, a system of three-year indicative budgets be developed with explicit financial targets, from which the annual plan would be derived.

77 That the LTCCP process be better aligned with the electoral cycle.

²²⁷ Controller and Auditor-General, *Matters arising from the 2006-16 Long-Term Council Community Plans*, 2007, AJHR, B.29[07c].

- 78 That councils improve the quality of the summaries of the long-term council community plan as a basis for decision making and consultation.
- 79 That the auditing of long-term council community plans be continued in the medium term.
- 80 That council-controlled organisations' financial information be required to be consolidated into the LTCCP.

Concerns about the nature and quality of citizen engagement in the LTCCP process

15.52 Initially many within the local government sector and within communities embraced the new community outcomes process enthusiastically. However, consultation around LTCCPs has since become widely criticised. Submissions to the Panel from citizens, farmers, businesses, and other groups representing ratepayers²²⁸ indicate that the consultation processes on LTCCPs is widely regarded as being inadequate, in that many councils approached the exercise with predetermined views – whereas the LGA 2002 requires them to receive views with an open mind and give them due consideration. As a result most considered that the consultation, to the extent it occurs, is a waste of time and noted that few if any parts of the LTCCP proposal are changed as a result of the consultation. The Panel was not in a position to confirm this claim, but nevertheless considers that the current statutory provisions regarding the time frame for consultation mean that there is little practical opportunity for councils to make any significant changes to the proposal that is the basis of consultation. Councils typically release their draft LTCCP or annual plan for public consultation for one month during March–April. They then have to process submissions, schedule hearing committees to hear oral submissions, deliberate on these publicly at council meetings, and then adopt the final plan by 30 June the same year.

15.53 Councils, in their submissions, noted problems with the current framework for consultation, but also noted that the strategic focus of the requirement to conduct a community outcomes process and produce a 10-year plan was worthwhile.²²⁹

15.54 The Panel acknowledges the inherent challenges faced by councils when consulting with communities as part of their financial decision making. It is clear that many positive relationships and sound policies result from council engagement with communities. However, it is important to recognise that consultation requires careful planning and access to appropriately qualified staff. The LGA 2002 has considerably enhanced financial and long-term planning to the benefit of New Zealand's communities, and there is further potential for further enhancement of planning and decision-making.

Improving reporting on proposed level of rates and rate increases

15.55 Some councils are “fudging” the real level of rates and rate increases, and there is a need for more standard, transparent, and honest reporting on the level of their rates and any increases. There are currently no standards that deal with issues such as

- what the term “rates” covers (Some councils refer to rate increases only in respect of the general rate. Many exclude targeted rates from any calculations and most exclude any reference to CCOs or other user charges that are substitutes for rates.)

228 See, for example, Westfield New Zealand Ltd [S639], AMP Capital Investors [S750], and the rural sector.

229 See joint submission from Local Government New Zealand and the Society of Local Government Managers [S581].

- calculating the “real” amount of rates increases after allowing for inflation
- calculating the amount of increase per rateable property; that is, after allowing for any increase in the number of rateable properties through growth.

15.56 The recommended improvement in reporting should be by way of a template, which might be developed by LGNZ and/or SOLGM in consultation with other stakeholders and would operate as a guide to best practice. The Panel sees this as preferable to legislating such a requirement. This would enable citizens to better understand the rating system and the expenditures behind their rate payments, to assess the changes that are occurring in their council’s rates, and to make comparisons with other councils.

Recommendation

81 That local government, in consultation with other stakeholders, produce a template, as a good practice guide, so that the amount of rates and annual increases can be better reported, and compared between councils. This template would set out

- **total rates and individual components (general rates, targeted rates, user charges, and council-controlled organisation charges)**
- **the real change in rates (that is, adjusted for inflation as measured by the Consumers Price Index)**
- **the adjustment for increases in the number of rateable properties**
- **the average total rate, its change over time, and rates broken down by ward**
- **the relative amounts and average rate borne by residential, business, and rural ratepayers and how this has changed from the previous year.**

Rates assessments

15.57 An obvious opportunity for good-quality communication is in the annual rates assessment notice. There is considerable scope for rates assessments to be more informative. In particular, for each ratepayer these should set out how much will be allocated for particular activities or services – for example, \$250 of your rates is for parks and reserves. It would be desirable to use a standard classification of activities consistent with the way expenditure is classified in the budget and in the annual financial statements. It should be clearly broken down into contributions to capital expenditures and operating expenditure.

15.58 It could also incorporate the information on overall rating levels and rate increases set out in recommendation 81 above.

Recommendation

82 That councils improve the information in the rates assessment notice, in particular by including detail on allocation of each assessment for particular activities.

Statement of revenue and financing policy

15.59 Adoption of a revenue and financing policy setting out a local authority's policies concerning the funding of operating and capital expenditures is required by section 103 of the LGA 2002. These policies underpin the financial information in the LTCCP, including the forecast level of rates. However, the Auditor-General's recent report²³⁰ comments on the lack of rationale given for the selection of funding sources and councils' limited consideration of where the benefits of proposed expenditure lie. Although the revenue and financing policy is considered the most critical policy for understanding a local authority's financial strategy, the lack of information in some policies reviewed by the Auditor-General made them at best uninformative.

Recommendation

83 That councils more fully explain the rationale for and impact of the policies required to be set out in the statement of revenue and financing policy.

Financial targets

15.60 As discussed in Chapter 8, section 100 of the LGA 2002 requires councils to adopt a balanced budget, meaning that operating revenues for each year must at least cover projected operating expenses. However, councils may depart from this provision where it is prudent to do so. The section sets circumstances where an operating deficit may be prudent, including where revenues may not need to cover full depreciation charges when councils may be using debt rather than internal funds (for example, accumulated through the funding of depreciation) to finance capital expenditures. A number of councils have not adopted the balanced budget requirement. Some incur an operating deficit through not fully funding depreciation. On the other hand, many achieve an operating surplus, rather than merely breaking even.

15.61 Although the balanced budget requirement is not strictly binding, the Panel considers that such a requirement should be a medium-term one covering, say, a three- to five-year period, rather than necessarily applying to each individual year. But in any case, a balanced budget requirement does not of itself require expenditure restraint.

15.62 This raises the broader question of the desirability of councils setting more definitive financial targets, rather than merely meeting the balanced budget requirement and setting out the other detailed financial policies required by section 102 of the LGA 2002. For example, Hutt City Council has adopted two financial targets – that annually rates should not rise above the rate of inflation by more than 0.5% in per capita terms and that debt is to be significantly reduced.

15.63 The Panel does not support the use of rate capping as a form of financial target. It considers this is too blunt and intrusive an instrument to achieve restraint given the wide variety of financial situations and expenditure needs of different councils. It is difficult to define with precision, and is therefore capable of manipulation. In any case, rate capping would apply to less than 60% of average council operating revenues.

15.64 The Panel considered whether councils should be subject to a local government equivalent of the Fiscal Responsibility Act 1994, which requires the setting of targets and a statement of why those targets are fiscally responsible. However, the Panel concluded that such a formal provision is not necessary, given the existing legislative provisions – the balanced budget requirement of the LGA 2002, the requirement for the adoption of a revenue and financing policy, and the role of

230 Controller and Auditor-General, *Matters arising from the 2006-16 Long-Term Council Community Plans*, 2007, AJHR, B.29[07c].

the Auditor-General in the review of LTCCPs and his reporting on cases where he considers the information contained in a council's LTCCP indicates a fiscally unsustainable policy.

15.65 Nevertheless, the Panel considers that all councils should adopt clear and honestly measured financial targets, covering the proposed three-year indicative budget recommended above. These targets should encompass changes in operating expenditures, as well as the level of rates and some measure of the level of debt in relation to assets. These should be developed as a best practice statement or template by local government in consultation with other stakeholders rather than be specified in the LGA 2002. Their achievement or otherwise should also be reported on in the audit report on the financial statements.

Recommendations

- 84 That councils set explicit financial targets on a three-year basis in conjunction with the proposed three-year indicative budget (see recommendation 76).**
- 85 That these targets be based on a template to be developed by local government, in consultation with other stakeholders, rather than prescribed in the Local Government Act 2002.**
- 86 That the audit of the financial statements of local authorities report on the achievement or otherwise of these financial targets.**

Annual financial reporting by councils

15.66 Councils are required to prepare an annual report, to be published within five months of the end of the financial year. However, these are not generally widely circulated or read. The report must include actual activities and levels of performance compared with planned activities and levels of performance. Measuring levels of performance would require output measures, which do not appear to be well developed in most councils, and the Auditor-General has commented on the weakness of this part of the reporting. Hence this requirement may be observed more in the breach, although it should be noted that this information is required to be audited. There is also a separate mention of community outcomes.

15.67 The annual report also includes the financial statements of the council, which are prepared according to New Zealand generally accepted accounting practice (NZ GAAP), as well as its consolidated financial statements, which include any CCOs. Only one set of financial statements would be required were CCOs consolidated in full into the LTCCP and the annual plan.

15.68 A weakness of current financial reporting, identified in the Auditor-General's recent report on LTCCPs, is the inadequate linkage between the accrual-based financial information contained in the operating statement and the funding information set out in the cash flow statement. This appears to be one reason for the widespread misunderstanding within local government about the balanced budget requirement and the adoption of inappropriate funding policies. As discussed in Chapter 8, the Auditor-General has suggested a new reporting template that would meet the dual purpose of reporting on the funding of both operating and capital expenditures and clarify the relationship between accounting and funding issues. The Panel fully supports this proposal.

Recommendation

- 87 That the new template for financial reporting (statement of service costs) proposed by the Controller and Auditor-General be implemented.**

Better reporting on performance

15.69 As discussed above, annual reports are required to include information about actual levels of service performance compared with planned levels. The Panel perceives a need in the longer term for a system of reporting that facilitates judgments about relative priorities or activities of councils and their efficiency of operations. Such reporting would assist citizens in making judgments about value for money from council services, as well as assist councils to demonstrate value for money from council activities. This would include

- a standard group of activities being used in financial reporting to facilitate comparisons between councils (covering both operating expenditure and capital expenditures)
- a system of output- or efficiency-based performance indicators, which would form the basis of benchmarking the performance of individual councils.

15.70 These performance indicators should not be too great in number and would need to be used carefully. They would be used to measure changes in performance within a council over time. Given the difficulty of making comparisons between individual councils, the starting point would be to explain differences between the indicators of individual councils. Consideration should be given to having this performance information audited.

15.71 Some moves have already been made to develop such a system of voluntary performance benchmarking. SOLGM has initiated some work, and a consortium of 12 councils has been working since 2005 to develop performance benchmarks, but these focus mainly on service quality measures such as timeliness or customer satisfaction measures rather than either outputs or outcomes. Some in the consortium are also seeking to apply business excellence models through benchmarking of other process measures. There is also at least one private consultancy firm that works with individual councils on benchmarking their performance.

15.72 These initiatives are welcome. Rather than a central prescriptive approach being followed, it should be left to local government through LGNZ and SOLGM, with the involvement of other stakeholders, to develop good practice templates.

15.73 There is a requirement once every three years to report on progress towards community outcomes. It is expected that progress will be reported through the annual report. At this stage it is too early to know whether this will provide an effective accountability mechanism, although it can be noted that local authority annual reports are generally not widely circulated or read.

Recommendation

88 That local government, in consultation with other stakeholders, move to develop a system of performance benchmarking.

Training of elected members

15.74 Local authority decision making is increasingly complex. In addition, with changing legislation there needs to be ongoing learning and skills development. The Panel is aware of the initiatives undertaken by LGNZ to provide training for elected members, which are commendable. However, the Panel is concerned that the desired outcomes are not being achieved. In particular, it appears that many elected members do not utilise training opportunities and that training is provided on a very selective basis. The Panel considers that a much more systematic and formal approach to training is needed, in conjunction with tertiary institutions. It would be desirable if there were some formal recognition for elected (or aspiring) members who have undertaken this training. In addition, there needs to be more comprehensive monitoring of training undertaken by elected members in order to assess training needs.

Recommendations

- 89 **That the Department of Internal Affairs work together with Local Government New Zealand to develop a comprehensive programme of training for elected or aspiring members of local authorities delivered in conjunction with appropriately qualified providers.**
- 90 **That the Department of Internal Affairs collect data on training undertaken by elected members of local authorities in order to assess training needs.**

Public education

15.75 As observed above, the decision-making task in local government is increasingly complex. It is as important to improve public understanding of local government as it is to build the capacity of elected members. The Panel notes the very useful Know How guides that were produced to assist with implementation of the LGA 2002 and LGRA. However, these guides are focused primarily on the needs of staff and elected members. The quantity and quality of information provided about local government on the DIA website could be enhanced to be the primary source of information for the general public. A 2004 guide to local government²³¹ provides useful guidance about the LGA 2002 and LGRA and more general civic education encompassing the role of local government. This type of guide needs to be produced and updated on a regular basis and made widely available to community groups. Audiovisual materials also need to be produced. The Panel is also aware that the Ministry of Education is scheduled to publish later in 2007 a revised New Zealand curriculum incorporating principles of community engagement.

Recommendations

- 91 **That the Department of Internal Affairs work in conjunction with the Ministry of Education and the Electoral Commission to ensure that the national curriculum includes adequate information on the structure, functions, and funding of local government and the way in which citizens may contribute to decision making.**
- 92 **That properly qualified providers be resourced to develop public education materials about local authority decision-making processes (including financial decision making) utilising different formats and addressing the needs of a range of audiences, using publications, a website, and audiovisual materials.**

Options to enhance accountability for dissatisfied citizens and community groups

15.76 The improved accountability mechanisms in the LGA 2002 have enhanced the transparency of decision making but transparency on its own is not sufficient. The shortcomings of the consultation provisions are exacerbated by the limited avenue for aggrieved citizens to obtain an independent assessment of a local authority decision or action. Part 10 of the LGA 2002 outlines the powers of the Minister to act in relation to local authorities. Section 254 provides the Minister with the power to appoint a review authority but this occurs very rarely and a very high threshold must be

231 *DecisionMaker Guide to Local Government*, DecisionMaker Publications in conjunction with the Centre for Citizenship Education, Wellington, 2004.

met before this power is exercised. According to the briefing to the incoming Minister of Local Government in 2005,

The Minister's powers to intervene in the decisions of individual councils are extremely limited and available only in specific circumstances where the risk to the well-being of local communities or representative democracy justifies overriding local accountability.²³²

15.77 The Auditor-General carries out audits as required by the LGA 2002 and also under his own powers, but the focus is on the financial and legal probity of council decision making. A key channel for citizen complaints is the Office of the Ombudsmen but this office is largely focused on the openness of decision making and availability of information.

15.78 The Panel considers that some independent mechanism should be considered for aspects of council financial decisions to be reviewed. While there is a precedent for a review of council decisions under the Resource Management Act 1991 that provides for appeals to the Environment Court, the Panel does not envisage a quasi-judicial appeal mechanism. Instead, a review process along the lines the investigation of citizens' concerns undertaken by the Parliamentary Commissioner for the Environment, which reports publicly and makes recommendations, would be appropriate because this would not undermine the representative decision-making process. With a small membership and finite resources, the review unit would need to be selective in reviews undertaken, focusing on reviews that would lead to guidelines about good practice. It could be proactive about undertaking reviews in accordance with its powers, as well as responding to requests from the public. The Local Government Commission may be a suitable body if given appropriate powers, funding, and membership.

Recommendation

93 That decisions that could be subject to independent review include the basis or reasonableness of particular targeted rates, of user charges and of development contributions, and rates remission policies.

15.79 It is clear to the Panel that there are some weaknesses in the institutional arrangements to safeguard the interests of different stakeholders in local government policy development. DIA has responsibility for local government policy, and although the department has a Local Government and Community Branch, it is not apparent to the Panel that there is a mechanism for the interests of communities (as distinct from the community and voluntary sector) to be articulated. The Community Boards Association (funded by local authorities through their membership of LGNZ) is perhaps the vehicle that most closely approximates "the community", yet community boards are limited in such a role by their being part of the structure of local government and they are not mandatory.

15.80 The Panel concludes that a new set of institutional arrangements is required within central government that ensures that the needs and interests of residents and ratepayers are incorporated in local government policy development. The way that the Office for Senior Citizens, the Office for the Community and Voluntary Sector, and the Office for Disability Issues operate within the Ministry of Social Development function (with stakeholder input) may offer a useful model.

Recommendation

94 That consideration be given to establishing an independent unit with power to review financial decisions.

²³² Department of Internal Affairs, Briefing for Incoming Minister Local Government, October 2005, p. 13.

- 95 That the Department of Internal Affairs, as the local government policy agency within central government, be resourced and given responsibility for ensuring that local government policy development has input from key stakeholders (including resident and ratepayer groups).**

Monitoring local government

15.81 There is a need for monitoring the overall performance of councils and of the operations of the LGA 2002 and the LGRA. This is logically the responsibility of the Local Government and Community Branch of DIA. The Panel considers that DIA currently lacks adequate resources or capacity for developing:

- ✦ good-quality information about the sector
- ✦ guidance for citizens and communities about implementation of legislation
- ✦ best practice guidance on implementation of local government legislation
- ✦ monitoring and review of implementation of local government legislation.

15.82 Prior to the passage of the LGA 2002, it was intended that its implementation be monitored and reviewed. In its August 2002 briefing to the incoming Minister of Local Government, DIA noted the need for “sufficient monitoring [to be] undertaken to provide a strong basis for future policy advice to provide a basis for factually based policy advice to Ministers, on the operation of the system of local government”.²³³ In October 2005, the department’s briefing to the incoming Minister after the 2005 general election confirmed that it was undertaking this evaluation programme to “consider the impacts and effectiveness of the new legislation in terms of its high level goals”.²³⁴ The Department has developed a framework for this evaluation, which is being rolled out over 10 years. At this stage, publicly available outputs from the research are very limited. The Panel has noted throughout the report a number of areas where comprehensive information is lacking that would allow quality policy advice to be given to Government on the impacts of the new legislation in 2002. These areas need to be addressed as a matter of priority by the Department of Internal Affairs.

Recommendation

- 96 That the resources provided to the Department of Internal Affairs be increased to enable it to adequately monitor the operation of councils and of the local government legislation.**

Managing central government relations with local government

15.83 The Panel also considers that improved institutional arrangements are required within central government to strengthen the partnership with local government. There is a need for better analysis, coordination, consultation, and guidance within and from central government in decisions that impact on local government. A constant theme of submissions and comments from councils was of new requirements being imposed on them by central government with little analysis, coordination, consultation, and guidance. The Panel has no reason to disbelieve these comments.

15.84 However, in December 2006 DIA published *Policy Development Guidelines for Regulatory Functions Involving Local Government*. These guidelines are designed to prompt and assist central government agencies to identify and consider key issues that may arise where local authorities may

²³³ Department of Internal Affairs, Briefing for Portfolio Minister 2002 Vote Local Government, August 2002, p. 9.

²³⁴ Department of Internal Affairs, Briefing for Incoming Minister Local Government, October 2005, p. 14.

be required to be involved in the implementation of regulatory functions. If fully applied they should overcome the complaints made by local government outlined above. The Panel is aware of the active response of many central government agencies in engaging with community outcomes processes, and in using experts from local government. However, there is scope for much more of this to be done, and for DIA to be consulted in all processes. In due course the operation of these guidelines should be reviewed by an external body such as the State Services Commission, in consultation with LGNZ, to ensure the guidelines are being adequately observed.

15.85 A further mechanism that may need to be considered, depending on the outcome of such a review, is a requirement in the Cabinet Handbook to identify the costs to (or other impacts on) local government arising from any proposed government policy decision or legislation and to confirm that appropriate consultation has been undertaken with local government.

15.86 The Panel also recognises that there are some existing institutional arrangements that work well, for example the Central/Local Government Forum, which meets twice a year and involves ministers, including the Prime Minister, as well as senior local government representatives. In addition, the Panel is aware that DIA has been mandated by Cabinet to facilitate central government engagement in community outcomes processes. These are important arrangements for ensuring greater mutual understanding and for fostering collaboration.

15.87 Parliament's Local Government and Environment Committee also reviews any legislation impacting on local government. The select committee has also indicated that it will monitor the impact of the recent reorganisation of the DIA,²³⁵ which is designed to foster an improved relationship between central and local government. The Panel supports this as a means of enhancing central government awareness of the impacts of its policies on local government.

15.88 The Panel recognises that considerable progress has been made since the establishment of the Central/Local Government Forum in 2000 towards a strong partnership between central and local government. However, while this is being consolidated at the political level (between the executives of both the Government and Local Government New Zealand), there is room for a further consolidation of the partnership at lower levels. There is a need for clearer policy direction from central government in relation to how the sectors can work together, conduct strategic planning, undertake monitoring and reporting, and achieve community outcomes.

235 Local Government and Environment Committee, *2007/08 Estimates: Vote Local Government*, p. 2.