1 February 2017

Hon Nanaia Mahuta
Minister of Local Government
Parliament Buildings

Dear Minister,

Draft Hurunui/Kaikōura Earthquakes Recovery (Local Government Act 2002—Kaikoura District 3-Year Plan) Order 2018

Thank you for providing our committee with a draft of the above order on 16 January 2018. We considered the draft order and the consultation document at our meeting on 31 January 2018.

For reasons set out below we invite you to consider our recommendation. Legislative Counsel are available to brief your officials about our concerns, if you would find that helpful.

Recommendation

We recommend that the draft order provide either—

- an alternative process for the Auditor-General or another independent body to report on whether the plan gives effect to the purpose of the three-year plan and for that report to be included in the three-year plan; or
- more reasoning as to why there is no process to provide checks and balances on the three-year plan and provide those reasons in the statement of reasons.

We also recommend attaching the statement of reasons to the draft order prior to publication in accordance with section 10 of the Hurunui/Kaikōura Earthquakes Recovery Act 2016.

Comment

In considering the draft order we have paid particular attention to whether the draft order is appropriately authorised by the Hurunui/Kaikōura Earthquakes Recovery Act 2016 (the Recovery Act). We have the following comments on the draft order.
**Clause 8(4)**

Clause 8(4) of the draft order provides that the three-year plan and any amendment to it need not contain report from the Auditor-General. It exempts the Council from the obligation under section 94 of the Local Government Act 2002 that the long-term plan must contain a report from the Auditor-General on whether the plan gives effect to the specified purposes and on the quality of information and assumptions.

The modification to the Local Government Act 2002 means that there is no body to provide independent oversight of the Kaikōura Council in regards to whether the plan gives effect to the specified purposes in the order. We understand that there are good reasons as to why the three-year plan should not be subject to the full audit requirements under section 94 of the Local Government Act 1994. However, it is not clear why there cannot be an amended or truncated process for the Auditor-General or other independent body to audit the three-year plan.

We recommend that the draft order either—

- provides an alternative process for the Auditor-General or another independent body to report on whether the plan gives effect to the purposes of the three-year plan and for that report to be included in the three-year plan; or
- provide reasoning as to why there is no process to provide checks and balances on the three year-plan and provide those reasons in the statement of reasons.

**Statement of Reasons**

We note that the draft order we received does not have any statement of reasons attached. Section 10 of the Act provides that if the relevant Minister makes a recommendation for an Order in Council, the Minister’s reasons for making the recommendation (including why the order is appropriate) must be published together with the Order in Council.

We recommend that the statement of reasons is attached to the draft order prior to publication.

**Conclusion**

We would appreciate being informed of what action your committee decides to take in relation to our comments.

Yours sincerely

[Signature]

Hon Jacqui Dean  
Chairperson  
Regulations Review Committee