Local Government Act 2002 Amendment Act 2014

Public Act	2014 No 55
Date of assent	7 August 2014
Commencement	see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Local Government Act 2002 Amendment Act 2014.

2 Commencement

(1) Sections 55 (so far as it relates to new sections 199C to 199E and 199M to 199P) and 74 come into force on 1 July 2014.

(2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the Local Government Act 2002 (the **principal Act**).

Part 1
Amendments to principal Act

4 Section 5 amended (Interpretation)

(1) In section 5(1), insert in their appropriate alphabetical order:

"**capital value** has the meaning set out in section 2 of the Rating Valuations Act 1998

"**governing body**,—

"(a) in the case of a regional council, means the body described in section 41(1); and

"(b) in the case of a territorial authority, means the body described in section 41(2)

"**land value** has the meaning set out in section 2 of the Rating Valuations Act 1998

"**local board** means—

"(a) a local board established by Order in Council under section 25; or

"(b) a local board established under section 10 of the Local Government (Auckland Council) Act 2009

"**local board agreement** means—

"(a) an agreement referred to in section 48O; or

"(b) an agreement specified in section 21 of the Local Government (Auckland Council) Act 2009

"**local board area** means—

"(a) an area specified by Order in Council under section 25 as a local board area; or

"(b) an area specified by Order in Council under section 35 of the Local Government (Auckland Council) Act 2009 as a local board area

"**local board funding allocation** means the total funds in respect of which a local board has decision-making discretion allocated in accordance with—

"(a) the unitary authority's local boards funding policy adopted under section 48M; or

"(b) the Auckland Council's local boards funding policy adopted under section 19 of the Local Government (Auckland Council) Act 2009

"**local board plan** means the plan that each local board is required to adopt under—

"(a) section 48N; or

"(b) section 20 of the Local Government (Auckland Council) Act 2009

"**rating unit** means a rating unit for the purposes of the Rating Valuations Act 1998

"**resource consent** has the meaning set out in section 197(2)

"**statutory obligation** means any responsibility, duty, or legal obligation conferred by or under any Act, and includes any powers associated with that responsibility, duty, or legal obligation".

(2) In section 5(1), replace the definition of **affected** with:

"**affected**,—

"(a) in relation to a local authority, means a local authority whose district or region is or contains an affected area:

"(b) in relation to a territorial authority, means a territorial authority whose district is or contains an affected area".

(3) In section 5(1), repeal the definition of **community infrastructure**.

(4) In section 5(1), definition of **member**, after paragraph (c), insert:

"(ca) in relation to a local board, means a member appointed to that board or elected to that board under the Local Electoral Act 2001, including the chairperson:".

(5) In section 5(1), definition of **publicly available**, after "document" insert "or other information".

(6) In section 5(1), definition of **strategic asset**, paragraph (a), replace "section 90(2)" with "section 76AA(3)".

(7) Replace section 5(3) with:

"(3) If a local authority or a council-controlled organisation is required under this Act to make a document or other information publicly available, it must take reasonable steps to—

"(a) ensure that the document or other information or a copy of the document or other information is accessible to the general public in a manner appropriate to the purpose of the document or other information, including, where practicable, on an Internet site maintained by or on behalf of the local authority; and

"(b) publicise, in a manner appropriate to the purpose and significance of the document or other information, both the fact that the document or other information is available and the manner in which the document or other information may be accessed."

5 Section 7 amended (Exempted organisations)

Replace section 7(6)(b) with:

"(b) after the first review, not more than 3 years following the last review under this section."

6 New section 8A inserted (Provisions affecting application of amendments to this Act)

After section 8, insert:

"**8A Provisions affecting application of amendments to this Act**

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms."

7 Section 11A amended (Core services to be considered in performing role)

Replace section 11A(e) with:

"(e) libraries, museums, reserves, and other recreational facilities and community amenities."

8 Section 14 amended (Principles relating to local authorities)

(1) Replace section 14(1)(e) with:

"(e) a local authority should actively seek to collaborate and co-operate with other local authorities and bodies to improve the effectiveness and efficiency with which it achieves its identified priorities and desired outcomes; and".

(2) Replace section 14(1)(g) with:

"(g) a local authority should ensure prudent stewardship and the efficient and effective use of its resources in the interests of its district or region, including by planning effectively for the future management of its assets; and".

9 Section 15 replaced (Triennial agreements)

Replace section 15 with:

"**15 Triennial agreements**

"(1) Not later than 1 March after each triennial general election of members, all local authorities within each region must enter into an agreement under this section covering the period until the next triennial general election of members.

"(2) An agreement under this section must include—

"(a) protocols for communication and co-ordination among the local authorities; and

"(b) a statement of the process by which the local authorities will comply with section 16 in respect of proposals for new regional council activities; and

"(c) processes and protocols through which all local authorities can participate in identifying, delivering, and funding facilities and services of significance to more than 1 district.

"(3) An agreement under this section may also include—

"(a) commitments by local authorities within the region to establish or continue 1 or more joint committees or other joint governance arrangements to give better effect to 1 or more of the matters referred to in subsection (2); and

"(b) the matters to be included in the terms of reference for any such committees or arrangements, including any delegations.

"(4) An agreement under this section may be varied by agreement between all the local authorities within the region.

"(5) An agreement under this section remains in force until it is replaced by another agreement.

"(6) If a decision of a local authority is significantly inconsistent with, or is expected to have consequences that will be significantly inconsistent with, the agreement under this section that is currently in force within the region, the local authority must, when making the decision, clearly identify—

"(a) the inconsistency; and

"(b) the reasons for the inconsistency; and

"(c) any intention of the local authority to seek an amendment to the agreement under subsection (4).

"(7) As soon as practicable after making any decision to which subsection (6) applies, the local authority must give to each of the other local authorities within the region notice of the decision and of the matters specified in that subsection."

10 Section 16 amended (Significant new activities proposed by regional council)

(1) Replace section 16(2)(b) with:

"(b) must include the proposal in the consultation document referred to in section 93A."

(2) In section 16(3), replace "a draft long-term plan" with "the consultation document referred to in section 93A".

11 Section 17 replaced (Transfer of responsibilities)

Replace section 17 with:

"**17 Transfer of responsibilities**

"(1) A regional council may transfer 1 or more of its responsibilities to a territorial authority in accordance with this section.

"(2) A territorial authority may transfer 1 or more of its responsibilities to a regional council in accordance with this section.

"(3) A transfer of responsibilities under this section must be made by agreement between the local authorities concerned and may be on the terms and conditions that are agreed between them.

"(4) A local authority may not agree to transfer a responsibility or agree to accept a transfer of a responsibility under this section unless it is satisfied, following consultation in accordance with section 82, that the benefits of the proposed transfer to its district or region will outweigh any negative impacts of the proposal.

"(5) A local authority must notify the Minister of its intention to transfer a responsibility or accept a transfer of responsibility under this section.

"(6) From the time a transfer takes effect, the responsibilities and powers of the local authority receiving the transfer are extended as necessary to enable the local authority to undertake, exercise, and perform the transferred responsibilities.

"(7) If a transfer of responsibilities has been made, either local authority that was a party to the transfer may, through the process set out in subsections (3) to (6), initiate—

"(a) a variation of the terms of the transfer; or

"(b) the reversal of the transfer.

"(8) In this section, **responsibility** means any responsibility, duty, or legal obligation except a responsibility, duty, or legal obligation conferred by or under any other Act, and includes—

"(a) a responsibility that has previously been transferred under this section; and

"(b) any powers associated with the responsibility, duty, or legal obligation.

"(9) Nothing in this section limits the ability of a local authority to—

"(a) delegate the exercise of any responsibility to another local authority; or

"(b) enter into a contractual agreement with another local authority for the performance of any activity or function.

"Compare: 1974 No 66 ss 37SC, 37SD".

12 New section 17A inserted (Delivery of services)

After section 17, insert:

"**17A Delivery of services**

"(1) A local authority must review the cost-effectiveness of current arrangements for meeting the needs of communities within its district or region for good-quality local infrastructure, local public services, and performance of regulatory functions.

"(2) Subject to subsection (3), a review under subsection (1) must be undertaken—

"(a) in conjunction with consideration of any significant change to relevant service levels; and

"(b) within 2 years before the expiry of any contract or other binding agreement relating to the delivery of that infrastructure, service, or regulatory function; and

"(c) at such other times as the local authority considers desirable, but not later than 6 years following the last review under subsection (1).

"(3) Despite subsection (2)(c), a local authority is not required to undertake a review under subsection (1) in relation to the governance, funding, and delivery of any infrastructure, service, or regulatory function—

"(a) to the extent that the delivery of that infrastructure, service, or regulatory function is governed by legislation, contract, or other binding agreement such that it cannot reasonably be altered within the following 2 years; or

"(b) if the local authority is satisfied that the potential benefits of undertaking a review in relation to that infrastructure, service, or regulatory function do not justify the costs of undertaking the review.

"(4) A review under subsection (1) must consider options for the governance, funding, and delivery of infrastructure, services, and regulatory functions, including, but not limited to, the following options:

"(a) responsibility for governance, funding, and delivery is exercised by the local authority:

"(b) responsibility for governance and funding is exercised by the local authority, and responsibility for delivery is exercised by—

"(i) a council-controlled organisation of the local authority; or

"(ii) a council-controlled organisation in which the local authority is one of several shareholders; or

"(iii) another local authority; or

"(iv) another person or agency:

"(c) responsibility for governance and funding is delegated to a joint committee or other shared governance arrangement, and responsibility for delivery is exercised by an entity or a person listed in paragraph (b)(i) to (iv).

"(5) If responsibility for delivery of infrastructure, services, or regulatory functions is to be undertaken by a different entity from that responsible for governance, the entity that is responsible for governance must ensure that there is a contract or other binding agreement that clearly specifies—

"(a) the required service levels; and

"(b) the performance measures and targets to be used to assess compliance with the required service levels; and

"(c) how performance is to be assessed and reported; and

"(d) how the costs of delivery are to be met; and

"(e) how any risks are to be managed; and

"(f) what penalties for non-performance may be applied; and

"(g) how accountability is to be enforced.

"(6) Subsection (5) does not apply to an arrangement to the extent that any of the matters specified in paragraphs (a) to (g) are—

"(a) governed by any provision in an enactment; or

"(b) specified in the constitution or statement of intent of a council-controlled organisation.

"(7) Subsection (5) does not apply to an arrangement if the entity that is responsible for governance is satisfied that—

"(a) the entity responsible for delivery is a community group or a not-for-profit organisation; and

"(b) the arrangement does not involve significant cost or risk to any local authority.

"(8) The entity that is responsible for governance must ensure that any agreement under subsection (5) is made publicly available.

"(9) Nothing in this section requires the entity that is responsible for governance to make publicly accessible any information that may be properly withheld if a request for that information were made under the Local Government Official Information and Meetings Act 1987."

13 Section 23 amended (Description of local government)

After section 23(4), insert:

"(4A) A local board must be described as the '[*name of local board area*] Local Board'."

14 Section 24 amended (Scope of local government reorganisation)

After section 24(1)(f), insert:

"(g) the establishment of a local board area, including the establishment of a local board for that local board area:

"(h) in relation to a local board, other than a local board established under the Local Government (Auckland Council) Act 2009,—

"(i) the means by which the chairperson is elected; and

"(ii) whether the local board may include appointed members:

"(i) the abolition of a local board area:

"(j) the alteration of the boundaries of a local board area:

"(k) the union of 2 or more local board areas."

15 Section 27 amended (Application to be called city council or district council)

In section 27(2)(b), replace "clause 7" with "clause 16".

16 Section 42 amended (Chief executive)

After section 42(2), insert:

"(2A) In the case of a unitary authority for a district that includes 1 or more local board areas, a chief executive appointed under subsection (1) is also responsible to the unitary authority for—

"(a) implementing the decisions of each local board within the district of the unitary authority; and

"(b) implementing each local board agreement; and

"(c) providing advice to each local board and its members; and

"(d) providing the administrative and other facilities for each local board that are necessary for the board to carry out its functions and perform its duties."

17 New subpart 1A of Part 4 inserted

After section 48, insert:

"Subpart 1A—Local boards

"**48A Application**

"(1) This subpart applies only to a unitary authority for a district that includes 1 or more local board areas established by Order in Council under section 25.

"(2) Nothing in this subpart applies to the Auckland Council established under section 6 of the Local Government (Auckland Council) Act 2009 or to any local board of that council.

"**48B Interpretation**

In this subpart, **local activities** means the non-regulatory activities of the unitary authority in respect of which a local board is allocated decision-making responsibility under section 48L, including—

"(a) providing services; and

"(b) providing and operating facilities; and

"(c) providing funding and other support to groups and organisations.

"**48C Purpose of local boards**

The purpose of a local board, in relation to its local board area, is to—

"(a) enable democratic decision making by, and on behalf of, communities within the local board area; and

"(b) better enable the purpose of local government to be given effect to within the local board area.

"48D Unitary authority decision making shared between governing body and local boards

"(1) Despite section 41(3), if a unitary authority has 1 or more local boards, the governing body and the local board or boards are each responsible and democratically accountable for the decision-making responsibilities of the unitary authority that are allocated to them in accordance with sections 48J to 48L.

"(2) A governance statement prepared by the unitary authority for the purposes of section 40 must include a description and an explanation of the matters referred to in subsection (1) of this section.

"48E Membership of local boards

The membership of a local board consists of—

"(a) members elected in accordance with the Local Electoral Act 2001; and

"(b) if an Order in Council under section 25 so provides, members appointed by the governing body in accordance with section 19EA(1)(c) of the Local Electoral Act 2001; and

"(c) a chairperson—

"(i) elected by the members of the local board from among themselves using one of the systems of voting set out in clause 25(3) and (4) of Schedule 7; or

"(ii) if an Order in Council under section 25 so provides, directly elected to that office by the electors of the local board area in accordance with section 19EB of the Local Electoral Act 2001.

"48F Indemnification and liability of local board members

"(1) Sections 43, 46, and 47 apply to a member of a local board, with any necessary modifications, as if the member were a member of the governing body of the unitary authority.

"(2) However, a member of a local board can be liable under section 46 or 47 only in respect of a matter that is the responsibility of the member's local board.

"**48G Status of local boards**

"(1) A local board is an unincorporated body.

"(2) A local board is not a local authority, a community board, or a committee of a governing body.

"(3) A local board does not have separate legal standing from the unitary authority and therefore, without limitation, may not—

"(a) acquire, hold, or dispose of property; or

"(b) enter into contracts; or

"(c) appoint, suspend, or remove employees; or

"(d) commence, or be a party to, or be heard in legal proceedings.

"(4) Nothing in this section limits the responsibility of a local board to make the decisions of the unitary authority that are allocated to it in accordance with section 48K.

"**48H Functions, duties, and powers of local boards**

"(1) A local board has the functions, duties, and powers conferred on a local board by or under this Act or any other enactment.

"(2) Without limiting subsection (1), a local board—

"(a) must exercise the responsibilities conferred on it by section 48K(1); and

"(b) must monitor and report on the implementation of the local board agreement for its local board area (in accordance with section 48O(6) and clause 34A of Schedule 10); and

"(c) must communicate with community organisations and special interest groups within its local board area; and

"(d) must undertake any responsibilities or duties that are delegated to it by the governing body under clause 36C of Schedule 7; and

"(e) may consider and report to the governing body on any matter of interest or concern to the local board, whether or not the matter is referred to it by the governing body; and

"(f) may exercise any powers that are delegated to it by the governing body under clause 36C of Schedule 7.

"*Decision making*

"**48I General scheme**

"(1) This section sets out the general scheme of sections 48J to 48O. These are the provisions of this Act that set out how a unitary authority with local boards makes its decisions. This section is by way of explanation only and does not limit or affect the other provisions of this Act or any other enactment.

"(2) Both the governing body and the local boards are responsible and democratically accountable for the decision making of the unitary authority. Whether responsibility for making any particular decision rests with the governing body or with 1 or more local boards depends on the nature of the decision being made.

"(3) Section 48J sets out the classes of decisions that the governing body must make. Section 48K sets out the classes of decisions that local boards must make. Both sections include a class of decisions in respect of non-regulatory activities of the unitary authority within a local board area. The governing body must allocate responsibility for decisions within this class to either itself or the local board for the area, in accordance with the principles in section 48L(2). The results of the allocation must then be set out in the long-term plan and the annual plans of the unitary authority so that people of each local board area, and any other persons, can easily determine whether the governing body or a local board is responsible for any particular decision of the unitary authority.

"(4) To determine local wishes and priorities in relation to the non-regulatory activities for which a local board is allocated responsibility, the board must consult its communities. The local board does this by preparing a local board plan under section 48N. This plan is used as a basis for the board to develop an annual local board agreement with the governing body under section 48O in which the nature, levels, and funding of the activities are set out.

"**48J Decision-making responsibilities of governing body**

"(1) The governing body is responsible and democratically accountable for—

"(a) the decision making of the unitary authority in relation to any regulatory responsibility, duty, or power conferred on, or applying to, the unitary authority under this Act or any other enactment (for example, the responsibilities, duties, or powers conferred on, or applying to, a local authority under the Resource Management Act 1991, the Health Act 1956, the Building Act 2004, and the Civil Defence Emergency Management Act 2002); and

"(b) the decision making of the unitary authority in relation to—

"(i) transport networks and infrastructure; and

"(ii) any non-regulatory activities of the unitary authority that are allocated to the governing body in accordance with section 48L; and

"(c) the decision making of the unitary authority in relation to the establishment and maintenance of capacity to provide, or to ensure the provision of, services and facilities (including local activities) by the unitary authority; and

"(d) the decision making of the unitary authority in relation to the governance of its council-controlled organisations; and

"(e) the decision making of the unitary authority in relation to compliance with section 101 (which relates to the financial management of a local authority); and

"(f) reaching agreement with each local board (as set out in each local board agreement) in respect of local activities for the local board areas.

"(2) Before making a decision described in subsection (1)(a) to (d), the governing body must—

"(a) comply with any requirement of this Act; and

"(b) comply with any requirements of any other enactment; and

"(c) consider any views and preferences expressed by a local board if the decision affects or may affect the responsi-

bilities or operation of the local board or the well-being of communities within its local board area.

"**48K Decision-making responsibilities of local boards**

"(1) Despite section 41(3), each local board is responsible and democratically accountable for—

"(a) the decision making of the unitary authority in relation to the non-regulatory activities of the unitary authority that are allocated to the local board in accordance with section 48L; and

"(b) identifying and communicating to the unitary authority the interests and preferences of the people in its local board area in relation to the content of the strategies, policies, plans, and bylaws of the unitary authority; and

"(c) identifying and developing bylaws specifically for its local board area, and proposing them to the governing body under section 150B; and

"(d) reaching agreement with the governing body (as set out in the local board agreement) in respect of local activities for its local board area.

"(2) In carrying out the responsibilities described in this section, a local board must comply with the requirements of sections 76 to 82 as if every reference in those sections to a local authority were a reference to a local board.

"(3) In carrying out the responsibilities described in this section, a local board must collaborate and co-operate with 1 or more other local boards or any other body or entity if the local board is satisfied that the interests and preferences of communities within the local board area will be better served by doing so.

"**48L Principles for allocation of decision-making responsibilities of unitary authority**

"(1) Decision-making responsibility for any non-regulatory activity of the unitary authority within a local board area must be allocated by the governing body—

"(a) to either the governing body or the local board for that area; and

"(b) in accordance with the principles set out in subsection (2); and

"(c) after considering the views and preferences expressed by the local board.

"(2) The principles are—

"(a) decision-making responsibility for a non-regulatory activity of the unitary authority within a local board area should be exercised by the local board for that area unless paragraph (b) applies:

"(b) decision-making responsibility for a non-regulatory activity of the unitary authority within a local board area should be exercised by its governing body if the nature of the activity is such that decision making on a district-wide basis will better promote the interests of the communities in the district because—

"(i) the impact of the decision will extend beyond the local board area; or

"(ii) effective decision making will require alignment or integration with other decisions that are the responsibility of the governing body; or

"(iii) the benefits of a consistent or co-ordinated approach in the district will outweigh the benefits of reflecting the particular needs and preferences of the communities within the local board area.

"(3) The long-term plan and each annual plan must identify the non-regulatory activities of the unitary authority for which decision-making responsibility is allocated to 1 or more local boards as set out in clauses 17A and 21A of Schedule 10.

"*Local boards funding policy*

"**48M Local boards funding policy**

"(1) To provide for predictability and certainty about levels of funding for local boards, a unitary authority must adopt a local boards funding policy as part of its long-term plan.

"(2) The local boards funding policy must set—

"(a) the basis on which the total funds to be allocated to meet the cost of all local activities within the district is to be determined; and

"(b) the formula by which the total funds allocated by the unitary authority for meeting the cost of funding local activities are to be allocated to each local board; and

"(c) the formula by which the total funds allocated by the unitary authority for meeting the cost of funding the administrative support to local boards are to be allocated to each local board.

"(3) The local boards funding policy must also identify any funding (except funding dedicated to particular purposes) that may be available to local boards for local activities and the criteria or process by which it may be allocated to them.

"(4) The formula referred to in subsection (2)(b) must allocate funds to each local board in a way that provides an equitable capacity for the local board to enhance the well-being of the communities in its local board area, having regard to the following factors:

"(a) the level of dependence on local government services and facilities in each local board area and in other parts of the district (as informed by information available to the unitary authority by reasonable means, and relating to the socio-economic, population, age profile, and other demographic characteristics of each local board area and other part of the district); and

"(b) the costs of achieving and maintaining the identified levels of service provision for local activities in each local board area; and

"(c) the rates revenue and any other revenue derived from each local board area in relation to local activities; and

"(d) any other factor identified by the unitary authority as significantly affecting the nature and level of services needed in any local board area or any other part of the district (for example, the geographic isolation of a particular local board area or part of the district).

"(5) The formula referred to in subsection (2)(c) must allocate funds to each local board in a way that provides equitable resources and support to that local board, having regard to the following factors:

"(a) the number of elected members on the local board; and

"(b) the size of the local board area; and

"(c) any other factor identified by the unitary authority as significantly affecting the operational costs of the local board; and

"(d) the funding amount allocated to the local board under subsection (4).

"(6) If the unitary authority amends its local boards funding policy under section 93(4), only a significant amendment to the policy is required to be audited in accordance with sections 93D(4) and 94.

"*Local board plans and agreements*

"**48N Local board plans**

"(1) Each local board must adopt a local board plan—

"(a) as soon as practicable after each triennial general election; but

"(b) not later than 31 October in the year immediately after the year of that election.

"(2) The purpose of a local board plan is—

"(a) to reflect the priorities and preferences of the communities within the local board area in respect of the level and nature of local activities to be provided by the unitary authority over the next 3 years; and

"(b) to identify and describe the interests and preferences of the people within the local board area for the purpose of enabling the local board to communicate those interests and preferences for the purposes of section 48K(1)(b); and

"(c) to provide a basis for developing the local board agreement for the next 3 years; and

"(d) to inform the development of the next long-term plan, particularly in relation to the identification of the non-regulatory activities of the unitary authority for which decision-making responsibility should be allocated to the local board; and

"(e) to provide a basis for accountability of the local board to the communities in the local board area; and

"(f) to provide an opportunity for people to participate in decision-making processes on the nature and level of

local activities to be provided by the unitary authority within the local board area.

"(3) A local board plan must include—

"(a) a statement of the default levels of service for local activities; and

"(b) an explanation of each variation from the default levels of services proposed for the local board area, if any; and

"(c) an estimate of the additional cost or saving associated with each variation, if any; and

"(d) an indicative local board budget, incorporating the estimates referred to in paragraph (c), that—

"(i) does not exceed the estimated funding allocation for the local board for the following year included in the long-term plan under clause 17A(c) of Schedule 10; or

"(ii) exceeds the estimated funding allocation referred to in subparagraph (i), but identifies how the expenses in excess of that allocation are proposed to be met from 1 or more local revenue sources.

"(4) In adopting a local board plan under subsection (1), a local board may follow whatever processes it considers appropriate to give effect to—

"(a) the purpose of the plan; and

"(b) the requirements in section 82.

"(5) In this section,—

"**default levels of service** means the levels of service provision for local activities in the district that are—

"(a) funded in each local board funding allocation; and

"(b) specified in the long-term plan (in accordance with clause 4 of Schedule 10)

"**following year** means the year commencing on the next 1 July.

"(6) In subsection (3)(d)(ii), **local revenue sources** include—

"(a) a targeted rate for all or part of the local board area; and

"(b) a fee or charge relating to a local activity; and

"(c) any other revenue connected with a local activity.

"**48O Local board agreements**

"(1) For each financial year, the unitary authority must have a local board agreement (as agreed between the governing body and the local board) for each local board area.

"(2) A local board agreement must set out how the unitary authority will, in the year to which the agreement relates, reflect the priorities and preferences in the local board's plan in respect of—

"(a) the local activities to be provided in the local board area; and

"(b) the responsibilities, duties, or powers delegated to the local board by the governing body under clause 36C of Schedule 7; and

"(c) the implementation or enforcement of bylaws made by the unitary authority as a result of a proposal from the local board.

"(3) A local board agreement is not required to reflect the priorities and preferences in its local board plan in respect of the matters referred to in subsection (2) to the extent that 1 or more of the following apply:

"(a) the local board determines that the priorities and preferences in the plan no longer reflect the priorities and preferences of the communities in the local board area; or

"(b) the governing body determines that the indicative budget in the plan is, or has become, significantly inaccurate; or

"(c) consistency with the plan would be contrary to any enactment.

"(4) A local board agreement must not be inconsistent with the adopted strategies, plans, policies, and objectives of the governing body.

"(5) For the purposes of subsection (2)(a), a local board agreement must, in respect of the local activities to be provided in the local board area in the year to which the agreement relates, include—

"(a) a statement of the intended levels of service provision that specifies—

"(i) any performance measures specified in a rule made under section 261B for each activity described in clause 2(2) of Schedule 10; and

"(ii) the performance measures that the unitary authority considers will enable the public to assess the level of service for major aspects of an activity for which performance measures have not been specified as described in subparagraph (i); and

"(iii) the performance target or targets set by the unitary authority for each performance measure; and

"(iv) any intended changes to the level of service that was provided in the year before the year to which the agreement relates and the reasons for the change; and

"(b) the funding impact statement in the form prescribed for inclusion in an annual plan under clause 20(2) of Schedule 10; and

"(c) a statement of how any expenses in excess of the local board's estimated funding allocation under clause 21A(b) of Schedule 10 are to be met (including estimated revenue levels and the other sources of funding).

"(6) Each local board must monitor the implementation of the local board agreement for its local board area.

"48P Consultation required on proposed content of local board agreement

"(1) A unitary authority undertaking consultation on the proposed content of a long-term plan or an annual plan under this Act must undertake consultation on the proposed content of each local board agreement to be included in that long-term plan or annual plan in accordance with sections 93A to 93G, or section 95(2), as the case may require.

"(2) Subsection (1) does not prevent the unitary authority undertaking other consultation that may be desirable in relation to the proposed content of a local board agreement."

"**48Q Application of Schedule 7 to local boards and their members**

"(1) Part 1A of Schedule 7 applies to a local board and its members.

"(2) Part 1 of Schedule 7 (excluding clauses 15 and 32AA to 36A) applies to a local board and its members, with any necessary modifications, as if the local board were a local authority and its members were members of the local authority.

"*Disputes between local boards and governing body*

"**48R Disputes about allocation of decision-making responsibilities or proposed bylaws**

"(1) Subsection (2) applies if—

"(a) 1 or more local boards are dissatisfied with a decision of the governing body under section 48L(1); or

"(b) a local board is dissatisfied with a decision of the governing body under section 150B(3)(b) or 150E(3)(b).

"(2) The local board or boards concerned and the governing body must make reasonable efforts to reach a mutually acceptable and timely resolution of the dispute, having regard to—

"(a) the requirements of this Act; and

"(b) the current and future well-being of the communities of the district, and the interests and preferences of the communities within each affected local board area.

"(3) If, after acting under subsection (2), the dispute is still unresolved, 1 or more local boards may apply, in writing, to the Commission for a binding determination on the matter.

"(4) An application must be accompanied by copies of all reports, correspondence, and other information that are relevant to the matter and held by the local board or boards.

"**48S Local Government Commission to determine disputes**

"(1) Promptly after receiving an application under section 48R(3), the Local Government Commission must notify the mayor and the chief executive of the unitary authority of the application and request them to provide, within 7 days after receiving the notice, copies of all information held by the unitary authority

that is relevant to the matter, including all reports and correspondence.

"(2) After receiving the information from the mayor and the chief executive, the Commission must—

"(a) consider the information it has received from them, and from the local board or boards concerned under section 48R(4); and

"(b) determine the matter, having regard to—

"(i) the requirements of this Act; and

"(ii) the current and future well-being of the communities of the district, and the interests and preferences of the communities within each affected local board area; and

"(iii) any other matter that the Commission considers on reasonable grounds to be relevant.

"(3) For the purposes of making a determination, the Commission—

"(a) must treat the matter as urgent; and

"(b) may make any inquiries that it considers appropriate; and

"(c) may (but is not obliged to) hold meetings with the local board or boards, the governing body, or any other person.

"(4) The Commission may apportion the actual and reasonable costs incurred by it in making a determination between the local board or boards and the governing body as it thinks fit, having regard to the merits of the initial positions of the local board or boards and the governing body.

"(5) Any costs apportioned to a local board under subsection (4) must be paid from the local board's budget.

"(6) Subsection (7) applies if—

"(a) the Commission is required to determine a matter that relates to the content of an adopted long-term plan; and

"(b) the Commission determines that the long-term plan should be amended.

"(7) The unitary authority must amend the long-term plan to the extent necessary to give effect to the determination and may do so without further authority than this section."

18 Section 56 amended (Consultation required before council-controlled organisation established)

Replace section 56(1) with:

"(1) Before a local authority may establish or become a shareholder in a council-controlled organisation, the local authority must undertake consultation in accordance with section 82."

19 Section 61 replaced (Certain goods and services to be supplied under purchase contracts)

Replace section 61 with:

"**61 Activities undertaken on behalf of local authorities**

Nothing in this Part restricts or limits the application of section 17A to any arrangement or agreement under which a council-controlled organisation undertakes any responsibility on behalf of a local authority, irrespective of whether the local authority is a shareholder of the council-controlled organisation."

20 New section 76AA and cross-heading inserted

After the subpart 1 heading, insert:

"*Significance and engagement policy*

"**76AA Significance and engagement policy**

"(1) Every local authority must adopt a policy setting out—

"(a) that local authority's general approach to determining the significance of proposals and decisions in relation to issues, assets, and other matters; and

"(b) any criteria or procedures that are to be used by the local authority in assessing the extent to which issues, proposals, assets, decisions, or activities are significant or may have significant consequences; and

"(c) how the local authority will respond to community preferences about engagement on decisions relating to specific issues, assets, or other matters, including the form of consultation that may be desirable; and

"(d) how the local authority will engage with communities on other matters.

"(2) The purpose of the policy is—

"(a) to enable the local authority and its communities to identify the degree of significance attached to particular issues, proposals, assets, decisions, and activities; and

"(b) to provide clarity about how and when communities can expect to be engaged in decisions about different issues, assets, or other matters; and

"(c) to inform the local authority from the beginning of a decision-making process about—

"(i) the extent of any public engagement that is expected before a particular decision is made; and

"(ii) the form or type of engagement required.

"(3) The policy adopted under subsection (1) must list the assets considered by the local authority to be strategic assets.

"(4) A policy adopted under subsection (1) may be amended from time to time.

"(5) When adopting or amending a policy under this section, the local authority must consult in accordance with section 82 unless it considers on reasonable grounds that it has sufficient information about community interests and preferences to enable the purpose of the policy to be achieved.

"(6) To avoid doubt, section 80 applies when a local authority deviates from this policy."

21 Section 77 amended (Requirements in relation to decisions)

Replace section 77(1)(b) with:

"(b) assess the options in terms of their advantages and disadvantages; and".

22 Section 79 amended (Compliance with procedures in relation to decisions)

In section 79(1)(a), after "decision", insert "as determined in accordance with the policy under section 76AA".

23 Section 82 amended (Principles of consultation)

Replace section 82(1)(f) with:

"(f) that persons who present views to the local authority should have access to a clear record or description of

relevant decisions made by the local authority and explanatory material relating to the decisions, which may include, for example, reports relating to the matter that were considered before the decisions were made."

24 New section 82A inserted (Information requirements for consultation required under this Act)

After section 82, insert:

"**82A Information requirements for consultation required under this Act**

"(1) This section applies if this Act requires a local authority to consult in accordance with, or using a process or a manner that gives effect to, the requirements of section 82.

"(2) The local authority must, for the purposes of section 82(1)(a) and (c), make the following publicly available:

"(a) the proposal and the reasons for the proposal; and

"(b) an analysis of the reasonably practicable options, including the proposal, identified under section 77(1); and

"(c) if a plan or policy or similar document is proposed to be adopted, a draft of the proposed plan, policy, or other document; and

"(d) if a plan or policy or similar document is proposed to be amended, details of the proposed changes to the plan, policy, or other document.

"(3) In the case of consultation on an annual plan under section 95(2), instead of complying with subsection (2), the local authority must prepare and adopt a consultation document that complies with section 95A.

"(4) Nothing in this section applies where the special consultative procedure under section 83 is required to be used.

"(5) Nothing in this section limits the application of section 82."

25 Section 83 replaced (Special consultative procedure)

Replace section 83 with:

"**83 Special consultative procedure**

"(1) Where this Act or any other enactment requires a local authority to use or adopt the special consultative procedure, that local authority must—

"(a) prepare and adopt—

"(i) a statement of proposal; and

"(ii) if the local authority considers on reasonable grounds that it is necessary to enable public understanding of the proposal, a summary of the information contained in the statement of proposal (which summary must comply with section 83AA); and

"(b) ensure that the following is publicly available:

"(i) the statement of proposal; and

"(ii) a description of how the local authority will provide persons interested in the proposal with an opportunity to present their views to the local authority in accordance with section 82(1)(d); and

"(iii) a statement of the period within which views on the proposal may be provided to the local authority (the period being not less than 1 month from the date the statement is issued); and

"(c) make the summary of the information contained in the statement of proposal prepared in accordance with paragraph (a)(ii) (or the statement of proposal, if a summary is not prepared) as widely available as is reasonably practicable as a basis for consultation; and

"(d) provide an opportunity for persons to present their views to the local authority in a manner that enables spoken (or New Zealand sign language) interaction between the person and the local authority, or any representatives to whom an appropriate delegation has been made in accordance with Schedule 7; and

"(e) ensure that any person who wishes to present his or her views to the local authority or its representatives as described in paragraph (d)—

"(i) is given a reasonable opportunity to do so; and

"(ii) is informed about how and when he or she may take up that opportunity.

"(2) For the purpose of, but without limiting, subsection (1)(d), a local authority may allow any person to present his or her views to the local authority by way of audio link or audiovisual link.

"(3) This section does not prevent a local authority from requesting or considering, before making a decision, comment or advice from an officer of the local authority or any other person in respect of the proposal or any views on the proposal, or both.

"**83AA Summary of information**

A summary of the information contained in a statement of proposal must—

"(a) be a fair representation of the major matters in the statement of proposal; and

"(b) be in a form determined by the local authority; and

"(c) indicate where the statement of proposal is available; and

"(d) state the period within which persons interested in the proposal may present their views to the local authority."

26 Section 84 repealed (Special consultative procedure in relation to long-term plan)

Repeal section 84.

27 Section 85 repealed (Use of special consultative procedure in relation to annual plan)

Repeal section 85.

28 Section 86 replaced (Use of special consultative procedure in relation to making, amending, or revoking bylaws)

Replace section 86 with:

"**86 Use of special consultative procedure in relation to making, amending, or revoking bylaws**

"(1) This section applies if, in accordance with section 156(1)(a), the special consultative procedure is required to be used in relation to the making, amending, or revoking of a bylaw.

"(2) The statement of proposal referred to in section 83(1)(a) must include,—

"(a) as the case may be,—

"(i) a draft of the bylaw as proposed to be made or amended; or

"(ii) a statement that the bylaw is to be revoked; and

"(b) the reasons for the proposal; and

"(c) a report on any relevant determinations by the local authority under section 155."

29 Sections 89 and 90 repealed

Repeal sections 89 and 90.

30 Section 93 amended (Long-term plan)

(1) In section 93(6)(e), delete "; and".

(2) Repeal section 93(6)(f).

31 New sections 93A to 93G inserted

After section 93, insert:

"**93A Use of special consultative procedure in relation to long-term plan**

"(1) Where the special consultative procedure is used in relation to the adoption or amendment of a long-term plan under section 93—

"(a) for the purpose of section 83(1)(a), instead of a statement of proposal and a summary of the information contained in the statement of proposal, a consultation document must be prepared and adopted in accordance with sections 93B to 93G; and

"(b) section 83 applies as if references to "the statement of proposal" or "the proposal" or a "summary" were references to the consultation document.

"(2) To avoid doubt, a draft long-term plan must not be used as an alternative to the consultation document.

"**93B Purpose of consultation document for long-term plan**

The purpose of the consultation document is to provide an effective basis for public participation in local authority decision-making processes relating to the content of a long-term plan by—

"(a) providing a fair representation of the matters that are proposed for inclusion in the long-term plan, and presenting these in a way that—

"(i) explains the overall objectives of the proposals, and how rates, debt, and levels of service might be affected; and

"(ii) can be readily understood by interested or affected people; and

"(b) identifying and explaining to the people of the district or region, significant and other important issues and choices facing the local authority and district or region, and the consequences of those choices; and

"(c) informing discussions between the local authority and its communities about the matters in paragraphs (a) and (b).

"**93C Content of consultation document for adoption of long-term plan**

"(1) The content of the consultation document for the adoption of a long-term plan must be such as the local authority considers on reasonable grounds will achieve the purpose set out in section 93B.

"(2) Without limiting subsection (1), the consultation document must describe—

"(a) each issue that the local authority determines should be included having had regard to—

"(i) the significance and engagement policy adopted under section 76AA; and

"(ii) the importance of other matters to the district and its communities; and

"(b) for each issue identified under paragraph (a),—

"(i) the principal options for addressing the issue and the implications (including financial implications) of each of those options; and

"(ii) the local authority's proposal, if any, for addressing the issue; and

"(iii) the likely consequences of proceeding with the proposal on the local authority's rates, debt, and levels of service; and

"(c) other matters of public interest relating to—

"(i) the proposed content of the local authority's financial strategy (under section 101A) including,

without limitation, the quantified limits on rates, rates increases, and borrowing in that strategy; and

"(ii) the proposed content of the local authority's infrastructure strategy (under section 101B); and

"(d) any significant changes that are proposed to the way the local authority funds its operating and capital expenditure requirements, including changes to the rating system described in clause 15(3) and (4) of Schedule 10; and

"(e) using graphs or charts, the direction and scale of changes to the local authority's rates and debt levels that will result from the proposed content of the long-term plan; and

"(f) using graphs or charts where practicable, the direction and nature of changes to the local authority's levels of service associated with the proposed content of the long-term plan; and

"(g) the impact of proposals on the rates assessed on different categories of rateable land with a range of property values, by the provision of examples as provided for in clause 15(5) of Schedule 10.

"(3) The consultation document—

"(a) must be presented in as concise and simple a manner as is consistent with section 93B and this section; and

"(b) without limiting paragraph (a), must not contain, or have attached to it,—

"(i) a draft of the long-term plan, as proposed to be adopted; or

"(ii) a full draft of any policy; or

"(iii) a full draft of the local authority's financial strategy or infrastructure strategy; or

"(iv) any detailed information, whether described in Part 1 of Schedule 10 or otherwise, that is not necessary or desirable for the purposes of subsections (1) and (2); and

"(c) must state where members of the public may obtain information adopted by the local authority under section 93G, which may include, for example, providing

links or references to the relevant documents on an Internet site maintained by or on behalf of the local authority; and

"(d) may be given the title of the local authority's choice, provided that the title or subtitle make reference to this being a consultation document for the proposed long-term plan for the relevant years.

"(4) The consultation document must contain a report from the Auditor-General on—

"(a) whether the consultation document gives effect to the purpose set out in section 93B; and

"(b) the quality of the information and assumptions underlying the information provided in the consultation document.

"(5) The report under subsection (4) must not comment on the merits of any policy content of the consultation document.

"93D Content of consultation document for amendment of long-term plan

"(1) The content of the consultation document for the amendment of a long-term plan must be such as the local authority considers on reasonable grounds will achieve the purpose set out in section 93B.

"(2) Without limiting subsection (1), the consultation document for an amendment to the long-term plan must include—

"(a) a description of the proposed amendment:

"(b) the reasons for the proposed amendment:

"(c) the implications (including financial implications) of the proposed amendment:

"(d) any alternatives to the proposed amendment that the local authority may wish to discuss with its communities.

"(3) The consultation document—

"(a) may have attached to it a copy of the proposed amendment to the long-term plan, if the local authority considers that the full copy of that proposed amendment will assist people to understand the amendment; but

"(b) in any other case, must state where a copy of the proposed amendment to the long-term plan may be obtained.

"(4) The consultation document must contain a report from the Auditor-General on—

"(a) whether the consultation document gives effect to the purpose set out in section 93B; and

"(b) the quality of the information and assumptions underlying the information provided in the consultation document.

"(5) The report under subsection (4) must not comment on the merits of any policy content of the consultation document.

"**93E Additional content of consultation document for adoption or amendment of long-term plan where section 97 applies to proposed decision**

If a consultation document under section 93C or 93D relates to a proposal to provide for the making of a decision to which section 97 applies, that consultation document must include—

"(a) the details of the proposed decision:

"(b) the reasons for the proposed decision:

"(c) an analysis of the reasonably practicable options, including the proposal, identified under section 77(1):

"(d) in respect of a proposal to transfer ownership or control of a strategic asset from the local authority to any other person,—

"(i) a description of any accountability or monitoring arrangements to be used to assess the performance of that person and any other person in regard to the asset; and

"(ii) an assessment of whether there are any conflicts of interest arising from the proposed transfer of the control or ownership of the asset, and, if so, what they are and how they will be managed.

"**93F Form and manner of presentation of consultation document**

The local authority must ensure that the contents of the consultation document are presented in a form and manner that enables the consultation document to achieve its purpose.

"**93G Information to be adopted by local authority in relation to long-term plan and consultation document**

Before adopting a consultation document under section 93A, the local authority must prepare and adopt the information that—

"(a) is relied on by the content of the consultation document adopted under section 93A; and

"(b) is necessary to enable the Auditor-General to give the reports required by sections 93C(4) and 93D(4); and

"(c) provides the basis for the preparation or amendment of the long-term plan."

32 Section 94 amended (Audit of long-term plan)

(1) Replace section 94(1)(a) with:

"(a) whether the plan gives effect to the purpose set out in section 93(6); and".

(2) Replace section 94(2) with:

"(2) In the case of an amended long-term plan, the report under subsection (1) must contain a report by the Auditor-General confirming or amending the report made when the long-term plan was adopted."

(3) In section 94(3), replace "For the avoidance of doubt, a" with "A".

33 Section 95 amended (Annual plan)

(1) Replace section 95(2) with:

"(2) Subject to subsection (2A), a local authority must consult in a manner that gives effect to the requirements of section 82 before adopting an annual plan under this section.

"(2A) Subsection (2) does not apply if the proposed annual plan does not include significant or material differences from the content

of the long-term plan for the financial year to which the proposed annual plan relates."

(2) Replace section 95(5)(c) with:

"(c) provide integrated decision making and co-ordination of the resources of the local authority; and".

(3) In section 95(5)(d), delete "; and".

(4) Repeal section 95(5)(e).

(5) After section 95(6), insert:

"(6A) Except where subsection (5) requires otherwise, the local authority must comply with subsection (6)(b) and (c) by means of reference to, rather than duplication of, the long-term plan."

34 New sections 95A and 95B inserted

After section 95, insert:

"**95A Purpose and content of consultation document for annual plan**

"(1) The purpose of the consultation document under section 82A(3) is to provide a basis for effective public participation in decision-making processes relating to the activities to be undertaken by the local authority in the coming year, and the effects of those activities on costs and funding, as proposed for inclusion in the annual plan, by—

"(a) identifying significant or material differences between the proposed annual plan and the content of the long-term plan for the financial year to which the annual plan relates; and

"(b) explaining the matters in paragraph (a) in a way that can be readily understood by interested or affected people; and

"(c) informing discussions between the local authority and its communities about the matters in paragraph (a).

"(2) The content of the consultation document must be such as the local authority considers on reasonable grounds will achieve the purpose set out in subsection (1), and must—

"(a) explain identified differences, if any, between the proposed annual plan and what is described in the long-term plan in relation to the financial year to which the annual plan relates, including (but not limited to)—

"(i) an explanation of any significant or material variations or departures from the financial statements or the funding impact statement; and

"(ii) a description of significant new spending proposals, the costs associated with those proposals, and how these costs will be met; and

"(iii) an explanation of any proposal to substantially delay, or not proceed with, a significant project, and the financial and service delivery implications of the proposal; and

"(b) outline the expected consequences of proceeding with the matters referred to in paragraph (a), including the implications for the local authority's financial strategy.

"(3) The consultation document—

"(a) must be presented in as concise and simple a manner as is consistent with this section; and

"(b) without limiting paragraph (a), must not contain, or have attached to it—

"(i) a draft of the annual plan as proposed to be adopted; or

"(ii) a full draft of any policy; or

"(iii) any detailed information, whether described in Part 2 of Schedule 10 or otherwise, that is not necessary or desirable for the purposes of subsections (1) and (2); and

"(c) must state where members of the public may obtain the information held by the local authority that is relied on by the content of the consultation document, including by providing links or references to the relevant information on an Internet site maintained by or on behalf of the local authority; and

"(d) may be given the title of the local authority's choice, provided that the title or subtitle make reference to this being a consultation document for the proposed annual plan for the relevant year.

"(4) The local authority must adopt the information that is relied on by the content of the consultation document, as referred to in subsection (3)(c), before it adopts the consultation document.

"(5) For the purposes of this section, a difference, variation, or departure is material if it could, itself or in conjunction with other differences, influence the decisions or assessments of those reading or responding to the consultation document.

"**95B Combined or concurrent consultation on long-term plan and annual plan**

If a local authority carries out consultation in relation to an amendment to a long-term plan at the same time as, or combined with, consultation on an annual plan,—

"(a) the content of consultation documents required under any of sections 93D, 93E, and 95A, as the case may be, for each consultation process must be combined into 1 consultation document; and

"(b) the special consultative procedure must be used in relation to both matters."

35 Section 101A amended (Financial strategy)

(1) Replace section 101A(2) with:

"(2) The purpose of the financial strategy is to—

"(a) facilitate prudent financial management by the local authority by providing a guide for the local authority to consider proposals for funding and expenditure against; and

"(b) provide a context for consultation on the local authority's proposals for funding and expenditure by making transparent the overall effects of those proposals on the local authority's services, rates, debt, and investments."

(2) In section 101A(3), delete "adopted under this section".

36 New section 101B inserted (Infrastructure strategy)

After section 101A, insert:

"**101B Infrastructure strategy**

"(1) A local authority must, as part of its long-term plan, prepare and adopt an infrastructure strategy for a period of at least 30 consecutive financial years.

"(2) The purpose of the infrastructure strategy is to—

"(a) identify significant infrastructure issues for the local authority over the period covered by the strategy; and

"(b) identify the principal options for managing those issues and the implications of those options.

"(3) The infrastructure strategy must outline how the local authority intends to manage its infrastructure assets, taking into account the need to—

"(a) renew or replace existing assets; and

"(b) respond to growth or decline in the demand for services reliant on those assets; and

"(c) allow for planned increases or decreases in levels of service provided through those assets; and

"(d) maintain or improve public health and environmental outcomes or mitigate adverse effects on them; and

"(e) provide for the resilience of infrastructure assets by identifying and managing risks relating to natural hazards and by making appropriate financial provision for those risks.

"(4) The infrastructure strategy must outline the most likely scenario for the management of the local authority's infrastructure assets over the period of the strategy and, in that context, must—

"(a) show indicative estimates of the projected capital and operating expenditure associated with the management of those assets—

"(i) in each of the first 10 years covered by the strategy; and

"(ii) in each subsequent period of 5 years covered by the strategy; and

"(b) identify—

"(i) the significant decisions about capital expenditure the local authority expects it will be required to make; and

"(ii) when the local authority expects those decisions will be required; and

"(iii) for each decision, the principal options the local authority expects to have to consider; and

"(iv) the approximate scale or extent of the costs associated with each decision; and

"(c) include the following assumptions on which the scenario is based:

"(i) the assumptions of the local authority about the life cycle of significant infrastructure assets:

"(ii) the assumptions of the local authority about growth or decline in the demand for relevant services:

"(iii) the assumptions of the local authority about increases or decreases in relevant levels of service; and

"(d) if assumptions referred to in paragraph (c) involve a high level of uncertainty,—

"(i) identify the nature of that uncertainty; and

"(ii) include an outline of the potential effects of that uncertainty.

"(5) A local authority may meet the requirements of section 101A and this section by adopting a single financial and infrastructure strategy document as part of its long-term plan.

"(6) In this section, **infrastructure assets** includes—

"(a) existing or proposed assets to be used to provide services by or on behalf of the local authority in relation to the following groups of activities:

"(i) water supply:

"(ii) sewerage and the treatment and disposal of sewage:

"(iii) stormwater drainage:

"(iv) flood protection and control works:

"(v) the provision of roads and footpaths; and

"(b) any other assets that the local authority, in its discretion, wishes to include in the strategy."

37 Section 102 amended (Funding and financial policies)

(1) In section 102(2)(e), after "land", insert "; and".

(2) After section 102(2)(e), insert:

"(f) in the case of a unitary authority for a district that includes 1 or more local board areas, a local boards funding policy."

(3) Replace section 102(4) with:

"(4) A local authority—

"(a) must consult on a draft policy in a manner that gives effect to the requirements of section 82 before adopting a policy under this section:

"(b) may amend a policy adopted under this section at any time after consulting on the proposed amendments in a manner that gives effect to the requirements of section 82."

38 Section 106 amended (Policy on development contributions or financial contributions)

(1) In section 106(2)(a), (b), and (c), replace "capital expenditure" with "total cost of capital expenditure".

(2) In section 106(2)(a), after "long-term plan", insert ", or identified under clause 1(2) of Schedule 13".

(3) In section 106(2)(e), replace "sections 201 and 202" with "sections 201 to 202A".

(4) After section 106(2), insert:

"(2A) This section does not prevent a local authority from calculating development contributions over the capacity life of assets or groups of assets for which development contributions are required, so long as—

"(a) the assets that have a capacity life extending beyond the period covered by the territorial authority's long-term plan are identified in the development contributions policy; and

"(b) development contributions per unit of demand do not exceed the maximum amount allowed by section 203.

"(2B) Subject to subsection (2C), a development contribution provided for in a development contributions policy may be increased under the authority of this subsection without consultation, formality, or a review of the development contributions policy.

"(2C) A development contribution may be increased under subsection (2B) only if—

"(a) the increase does not exceed the result of multiplying together—

"(i) the rate of increase (if any), in the Producers Price Index Outputs for Construction provided by Statistics New Zealand since the development contribution was last set or increased; and

"(ii) the proportion of the total costs of capital expenditure to which the development contribution will be applied that does not relate to interest and other financing costs; and

"(b) before any increase takes effect, the territorial authority makes publicly available information setting out—

"(i) the amount of the newly adjusted development contribution; and

"(ii) how the increase complies with the requirements of paragraph (a)."

(5) Replace section 106(6) with:

"(6) A policy adopted under section 102(1) must be reviewed at least once every 3 years using a consultation process that gives effect to the requirements of section 82."

39 Section 108 amended (Policy on remission and postponement of rates on Māori freehold land)

Replace section 108(4A) with:

"(4A) A policy adopted under section 102(1) must be reviewed at least once every 6 years using a consultation process that gives effect to the requirements of section 82."

40 Section 109 amended (Rates remission policy)

Replace section 109(2A)(a) with:

"(a) must be reviewed at least once every 6 years using a consultation process that gives effect to the requirements of section 82; and".

41 Section 110 amended (Rates postponement policy)

Replace section 110(2A)(a) with:

"(a) must be reviewed at least once every 6 years using a consultation process that gives effect to the requirements of section 82; and".

42 Section 123 amended (Outline of Part)

In section 123(a), replace ", the scope of those assessments, and the process to be followed" with "and the purpose of those assessments".

43 Section 125 amended (Requirement to assess water and other sanitary services)

Repeal section 125(3).

44 New section 126 inserted (Purpose of assessments)

After section 125, insert:

"**126 Purpose of assessments**

The purpose of an assessment under section 125 is to assess, from a public health perspective, the adequacy of water and other sanitary services available to communities within a territorial authority's district, in light of—

"(a) the health risks to communities arising from any absence of, or deficiency in, water or other sanitary services; and

"(b) the quality of services currently available to communities within the district; and

"(c) the current and estimated future demands for such services; and

"(d) the extent to which drinking water provided by water supply services meets applicable regulatory standards; and

"(e) the actual or potential consequences of stormwater and sewage discharges within the district."

45 Section 139 amended (Protection of regional parks)

Replace section 139(5)(b) with:

"(b) the regional council has consulted in a manner that gives effect to the requirements of section 82 in determining whether to dispose of the land."

46 Section 150 amended (Fees may be prescribed by bylaw)

Replace section 150(3)(b) with:

"(b) following consultation in a manner that gives effect to the requirements of section 82."

47 New sections 150A to 150F and cross-heading inserted

After section 150, insert:

"**150A Costs of development contribution objections**

"(1) If a person objects to a territorial authority's requirement that a development contribution be made, the territorial authority may recover from the person its actual and reasonable costs in respect of the objection.

"(2) The costs that the territorial authority may recover under this section are the costs incurred by it in respect of—

"(a) the selection, engagement, and employment of the development contributions commissioners; and

"(b) the secretarial and administrative support of the objection process; and

"(c) preparing for, organising, and holding the hearing.

"(3) A territorial authority may, in any particular case and in its absolute discretion, waive or remit the whole or any part of any costs that would otherwise be payable under this section.

"(4) A territorial authority's actual and reasonable costs in respect of objections are recoverable under section 252.

"*Bylaws proposed by local boards*

"**150B Local boards may propose bylaw**

"(1) A local board may propose to the governing body, in writing, the making of a bylaw to apply only in, or only in any part of, its local board area.

"(2) As soon as is practicable after receiving a proposal under subsection (1), the governing body must decide whether the proposed bylaw meets the following requirements:

"(a) the enactment under which the proposed bylaw is to be made authorises the making of the bylaw; and

"(b) the proposed bylaw complies with the applicable statutory requirements of that enactment and any other relevant enactment; and

"(c) the proposed bylaw is not inconsistent with any strategy, policy, plan, or bylaw of the unitary authority; and

"(d) the proposed bylaw can be implemented and enforced within the local board's budget; and

"(e) the proposed bylaw will not have any significant effect outside the local board's area.

"(3) If the governing body decides that a proposed bylaw—

"(a) meets the requirements of subsection (2), it must give written notice of its decision to the local board:

"(b) does not meet the requirements of subsection (2), it must give written notice of its decision (with reasons) to the local board.

"(4) In this section and sections 150C to 150F,—

"(a) a reference to the governing body in relation to a local board means the governing body of the unitary authority for the district that includes the local board area of that local board; and

"(b) a reference to the unitary authority in relation to a local board means the unitary authority for the district that includes the local board area of that local board.

"**150C Local board must consult on proposed bylaw**

"(1) This section applies if a local board has received notice under section 150B(3)(a) from a governing body in respect of a bylaw that the local board has proposed.

"(2) The local board must consult the public within the local board area on the proposed bylaw and, for that purpose, section 156(1) applies, with any necessary modifications, as if the local board were a local authority.

"(3) If, after acting under subsection (2), the local board confirms the proposed bylaw, it must give written notice of its decision to the governing body, and the governing body must adopt the bylaw by resolution.

"(4) If, after acting under subsection (2), the local board modifies the proposed bylaw, it must given written notice of its decision to the governing body, and the governing body must,—

"(a) if satisfied that the proposed bylaw meets the requirements of section 150B(2), adopt the bylaw by resolution; or

"(b) if not satisfied that the proposed bylaw meets the requirements of section 150B(2), give notice to the local board under section 150B(3)(b).

"(5) Where the unitary authority adopts under subsection (3) or (4)(a) a bylaw that is made under this Act, the requirements of sections 86, 155, and 156 are deemed to be satisfied in respect of that bylaw.

"**150D Local board may propose amendment to bylaw**

"(1) A local board may propose to the governing body, in writing, that a bylaw that applies only in, or only in any part of, its local board area be amended.

"(2) For the purposes of subsection (1), sections 150B and 150C apply with any necessary modifications.

"**150E Local board may propose revocation of bylaw**

"(1) A local board may propose to the governing body, in writing, that a bylaw that applies only in, or only in any part of, its local board area be revoked.

"(2) As soon as practicable after receiving a proposal under subsection (1), the governing body must decide whether the proposed revocation—

"(a) complies with the applicable statutory requirements; and

"(b) is not inconsistent with any strategy, policy, or plan of the unitary authority; and

"(c) will not have any significant effect outside the local board's area.

"(3) If the governing body decides that a proposed revocation—

"(a) meets the requirements of subsection (2), it must give written notice of its decision to the local board:

"(b) does not meet the requirements of subsection (2), it must give written notice of its decision (with reasons) to the local board.

"(4) If the local board receives notice under subsection (3)(a), section 150C(2), (3), and (5) applies, with any necessary modifications, as if the proposed revocation were a proposed bylaw.

"**150F Joint bylaw proposals**

"(1) Two or more local boards may propose to the governing body, in writing, the making of a bylaw to apply only in, or only in any part of, the local boards' areas.

"(2) For the purposes of subsection (1), sections 150B to 150D apply with any necessary modifications."

48 Section 156 amended (Special consultative procedure must be used in making, amending, or revoking bylaw made under this Act)

(1) Replace the heading to section 156 with "**Consultation requirements when making, amending, or revoking bylaws made under this Act**".

(2) Replace section 156(1) with:

"(1) When making a bylaw under this Act or amending or revoking a bylaw made under this Act, a local authority must—

"(a) use the special consultative procedure (as modified by section 86) if—

"(i) the bylaw concerns a matter identified in the local authority's policy under section 76AA as being of significant interest to the public; or

"(ii) the local authority considers that there is, or is likely to be, a significant impact on the public due to the proposed bylaw or changes to, or revocation of, the bylaw; and

"(b) in any case in which paragraph (a) does not apply, consult in a manner that gives effect to the requirements of section 82."

(3) In section 156(2), replace "subsection (1)(b)" with "subsection (1)".

49 Section 160 amended (Procedure for and nature of review)

(1) Replace section 160(3)(b) with:

"(b) should continue without amendment, it must—

"(i) consult on the proposal using the special consultative procedure if—

"(A) the bylaw concerns a matter identified in the local authority's policy under section

76AA as being of significant interest to the public; or

"(B) the local authority considers that there is, or is likely to be, a significant impact on the public due to the proposed continuation of the bylaw; and

"(ii) in any other case, consult on the proposed continuation of the bylaw in a manner that gives effect to the requirements of section 82."

(2) In section 160(4), replace "For the purposes of subsection (3)(b), the statement of proposal referred to in section 83(1)(a) must include" with "For the purpose of the consultation required under subsection (3)(b), the local authority must make available".

50 New sections 197AA and 197AB inserted

Before section 197, insert:

"**197AA Purpose of development contributions**

The purpose of the development contributions provisions in this Act is to enable territorial authorities to recover from those persons undertaking development a fair, equitable, and proportionate portion of the total cost of capital expenditure necessary to service growth over the long term.

"**197AB Development contributions principles**

All persons exercising duties and functions under this subpart must take into account the following principles when preparing a development contributions policy under section 106 or requiring development contributions under section 198:

"(a) development contributions should only be required if the effects or cumulative effects of developments will create or have created a requirement for the territorial authority to provide or to have provided new or additional assets or assets of increased capacity:

"(b) development contributions should be determined in a manner that is generally consistent with the capacity life of the assets for which they are intended to be used and in a way that avoids over-recovery of costs allocated to development contribution funding:

"(c) cost allocations used to establish development contributions should be determined according to, and be proportional to, the persons who will benefit from the assets to be provided (including the community as a whole) as well as those who create the need for those assets:

"(d) development contributions must be used—

"(i) for or towards the purpose of the activity or the group of activities for which the contributions were required; and

"(ii) for the benefit of the district or the part of the district that is identified in the development contributions policy in which the development contributions were required:

"(e) territorial authorities should make sufficient information available to demonstrate what development contributions are being used for and why they are being used:

"(f) development contributions should be predictable and be consistent with the methodology and schedules of the territorial authority's development contributions policy under sections 106, 201, and 202:

"(g) when calculating and requiring development contributions, territorial authorities may group together certain developments by geographic area or categories of land use, provided that—

"(i) the grouping is done in a manner that balances practical and administrative efficiencies with considerations of fairness and equity; and

"(ii) grouping by geographic area avoids grouping across an entire district wherever practical."

51 Section 197 amended (Interpretation)

(1) In section 197(1), definition of **development**, paragraph (a), replace "or other development" with ", building (as defined in section 8 of the Building Act 2004), land use, or work".

(2) In section 197(2), replace the definition of **community infrastructure** with:

"**community infrastructure** means the following assets when owned, operated, or controlled by a territorial authority:

"(a) community centres or halls for the use of a local community or neighbourhood, and the land on which they are or will be situated:

"(b) play equipment that is located on a neighbourhood reserve:

"(c) toilets for use by the public".

(3) In section 197(2), insert in their appropriate alphabetical order:

"**accommodation units** means units, apartments, rooms in 1 or more buildings, or cabins or sites in camping grounds and holiday parks, for the purpose of providing overnight, temporary, or rental accommodation

"**development agreement** means a voluntary contractual agreement made under sections 207A to 207F between 1 or more developers and 1 or more territorial authorities for the provision, supply, or exchange of infrastructure, land, or money to provide network infrastructure, community infrastructure, or reserves in 1 or more districts or a part of a district

"**development contribution objection** means an objection lodged under clause 1 of Schedule 13A against a requirement to make a development contribution

"**development contributions commissioner** means a person appointed under section 199F

"**objector** means a person who lodges a development contribution objection

"**resource consent** has the meaning given to it in section 2(1) of the Resource Management Act 1991 and includes a change to a condition of a resource consent under section 127 of that Act".

52 Section 198 amended (Power to require contributions for developments)

(1) In section 198(2), replace "a development contribution" with "the development contribution".

(2) After section 198(2), insert:

"(2A) For the purposes of subsection (2), a development contribution must be consistent with the content of the policy adopted

under section 102(1) that was in force at the time that the application for a resource consent, building consent, or service connection was submitted, accompanied by all required information."

(3) After section 198(4), insert:

"(4A) If a development contribution policy provides for a development contribution under subsection (1)(b), the territorial authority may require that development contribution to be made when granting a certificate of acceptance under section 98 of the Building Act 2004 if a development contribution would have been required had a building consent been granted for the building work in respect of which the certificate is granted."

53 New section 198A inserted (Restrictions on power to require contributions for reserves)

After section 198, insert:

"**198A Restrictions on power to require contributions for reserves**

"(1) Despite section 198(1), a territorial authority may not require a development contribution to be made to the territorial authority for the provision of any reserve—

"(a) if the development is non-residential in nature; or

"(b) for the non-residential component of a development that has both a residential component and a non-residential component.

"(2) For the purpose of subsection (1), accommodation units are deemed to be residential.

"(3) In this section, **reserve** does not include land that forms or is to form part of any road or is used or is to be used for stormwater management purposes."

54 Section 199 amended (Basis on which development contributions may be required)

(1) In section 199(2), replace "the development" with "development".

(2) In section 199(3), replace "another development" with "other developments".

55 New sections 199A to 199P inserted

After section 199, insert:

"**199A Right to reconsideration of requirement for development contribution**

"(1) If a person is required by a territorial authority to make a development contribution under section 198, the person may request the territorial authority to reconsider the requirement if the person has grounds to believe that—

"(a) the development contribution was incorrectly calculated or assessed under the territorial authority's development contributions policy; or

"(b) the territorial authority incorrectly applied its development contributions policy; or

"(c) the information used to assess the person's development against the development contributions policy, or the way the territorial authority has recorded or used it when requiring a development contribution, was incomplete or contained errors.

"(2) A request for a reconsideration must be lodged and decided according to the procedure set out in a development contributions policy under section 202A(2).

"(3) A request for a reconsideration must be made within 10 working days after the date on which the person lodging the request receives notice from the territorial authority of the level of development contribution that the territorial authority requires.

"(4) A person may not apply for a reconsideration of a requirement if the person has already lodged an objection to that requirement under section 199C and Schedule 13A.

"**199B Territorial authority to notify outcome of reconsideration**

"(1) The territorial authority must, within 15 working days after the date on which it receives all required relevant information relating to a request, give written notice of the outcome of its reconsideration to the person who made the request.

"(2) A person who requested a reconsideration may object to the outcome of the reconsideration in accordance with section 199C.

"**199C Right to object to assessed amount of development contribution**

"(1) A person may, on any ground set out in section 199D, object to the assessed amount of the development contribution that a territorial authority has required from the person under section 198, advised in—

"(a) a notice given to the person for that purpose by the territorial authority; or

"(b) if notice has not been given, such other formal advice of the requirement that the territorial authority has given to the person.

"(2) The right of objection conferred by subsection (1) applies irrespective of whether a reconsideration of the requirement for a development contribution under section 199A has been requested.

"(3) The right of objection conferred by this section does not apply to challenges to the content of a development contributions policy prepared in accordance with section 102.

"**199D Scope of development contribution objections**

An objection under section 199C may be made only on the ground that a territorial authority has—

"(a) failed to properly take into account features of the objector's development that, on their own or cumulatively with those of other developments, would substantially reduce the impact of the development on requirements for community facilities in the territorial authority's district or parts of that district; or

"(b) required a development contribution for community facilities not required by, or related to, the objector's development, whether on its own or cumulatively with other developments; or

"(c) required a development contribution in breach of section 200; or

"(d) incorrectly applied its development contributions policy to the objector's development.

"**199E Procedure for development contribution objections**

Schedule 13A applies in relation to objections under section 199C.

"**199F Appointment and register of development contributions commissioners**

"(1) The Minister must appoint suitable persons as approved development contributions commissioners who are to decide development contribution objections.

"(2) The Minister must compile and keep a register of approved development contributions commissioners.

"(3) The Minister must ensure that the persons named in the register individually or collectively have—

"(a) knowledge and experience in adjudication and mediation, including the conduct of hearings or inquiries; and

"(b) knowledge, skills, and experience relevant to the subject matter likely to arise in an objection; and

"(c) knowledge of tikanga Māori.

"(4) The Minister may, by notice in the *Gazette*, specify additional criteria for the appointment of development contributions commissioners (being in addition to, but not inconsistent with, the criteria specified in subsection (3)).

"(5) Before compiling the register or specifying additional appointment criteria, the Minister must consult persons that the Minister considers are representative of parties that are most likely to be participants in development contribution objections.

"(6) The term of appointment for a development contributions commissioner on the register expires—

"(a) 3 years after the date on which his or her appointment takes effect; or

"(b) at the close of the term of his or her reappointment; or

"(c) at the close of the extension of his or her term; or

"(d) as soon after the completion of his or her term of appointment or reappointment as is necessary to enable him or her to complete any outstanding work, but not later than the notification of his or her final decision as a commissioner.

"(7) The Minister must notify all appointments of approved development contributions commissioners in the *Gazette*.

"**199G Removal of development contributions commissioners**

The Minister may remove any development contributions commissioner from the register kept under section 199F, but only—

"(a) because of the criminal activity or other misconduct of the commissioner; or

"(b) if the commissioner is unable to perform the functions of office; or

"(c) if the commissioner has neglected his or her duty.

"**199H Who may decide development contribution objections**

"(1) Any person named in the register of approved development contributions commissioners and selected by a territorial authority in accordance with clause 3 of Schedule 13A to decide a development contribution objection may hear and decide the objection.

"(2) A person who is not named in the register of approved development contributions commissioners may hear and decide a development contribution objection only if—

"(a) the territorial authority is satisfied that—

"(i) the objection relates to matters that require skills or knowledge that is not available from persons named in the register who are available to deal with the objection; and

"(ii) another suitable person with such skills or knowledge is available to deal with the objection; and

"(b) the Minister approves the territorial authority's selection of that other person to decide the objection.

"(3) A person approved by the Minister under subsection (2)(b) must be treated as a development contributions commissioner for the period necessary to enable the person to decide the relevant objection.

"**199I Development contribution objection hearings**

"(1) The applicable fees and allowances for a witness appearing at a development contribution objection hearing must be paid by the party on whose behalf the witness is called.

"(2) Before or at the hearing, a development contributions commissioner may request the objector or territorial authority to provide further information.

"(3) If information is requested before a hearing under subsection (2), the party required to provide the information must serve copies of it on the other parties to the objection.

"(4) Only the territorial authority and the objector have a right to be heard at the hearing of an objection. The commissioners may, at their discretion, invite any other person or organisation to attend and be heard to the extent allowed by the commissioners.

"(5) Part 2 of Schedule 13A sets out supplementary provisions that apply in relation to development contribution objection hearings.

"**199J Consideration of development contribution objection**

When considering a development contribution objection and any evidence provided in relation to that objection, development contributions commissioners must give due consideration to the following:

"(a) the grounds on which the development contribution objection was made:

"(b) the purpose and principles of development contributions under sections 197AA and 197AB:

"(c) the provisions of the development contributions policy under which the development contribution that is the subject of the objection was, or is, required:

"(d) the cumulative effects of the objector's development in combination with the other developments in a district or parts of a district, on the requirement to provide the community facilities that the development contribution is to be used for or toward:

"(e) any other relevant factor associated with the relationship between the objector's development and the development contribution to which the objection relates.

"**199K Additional powers of development contributions commissioners**

"(1) In addition to his or her powers under section 199I and Schedule 13A, a development contributions commissioner has, for the purposes of a development contribution objection hearing, the following powers:

"(a) to direct the order of business at the hearing, including the order in which evidence is presented and parties heard:

"(b) to direct that evidence presented at the hearing be taken as read or presented within a stated time limit:

"(c) to direct that evidence be limited to the matters relevant to the dispute.

"(2) Whether or not a hearing is held, a development contributions commissioner may direct that briefs of evidence be provided within a specified period ending not later than,—

"(a) if a hearing is to be held, 10 working days before the hearing commences; or

"(b) in any other case, 10 working days before the date on which the commissioner or commissioners intend to begin their consideration of the objection.

"(3) A development contributions commissioner may waive or extend any period specified in this section or Schedule 13A (except the period specified in clause 1(1) of Schedule 13A) if satisfied that exceptional circumstances exist.

"(4) A development contributions commissioner may, on his or her own initiative or on application from the objector or the territorial authority, make an order that prohibits the communication or publication of any information supplied to the commissioner, or obtained by the commissioner, in the course of deciding a development contribution objection, if satisfied that the order is necessary to avoid—

"(a) serious offence to tikanga Māori or to avoid the disclosure of the location of wāhi tapu; or

"(b) the disclosure of a trade secret or commercial information that, if released, would be prejudicial to the business or operations of any party to the objection.

"**199L Liability of development contributions commissioners**

A development contributions commissioner is not liable for anything the commissioner does, or omits to do, in good faith in performing or exercising the functions, duties, responsibilities, and powers of a development contributions commissioner under this Act.

"**199M Residual powers of territorial authority relating to development contribution objection decision**

"(1) This section applies to a decision of a development contributions commissioner.

"(2) The territorial authority affected by the decision retains all the functions, duties, responsibilities, and powers of a territorial authority in relation to the requirement for the development contribution that is the subject of the decision as if the decision had been made by the territorial authority.

"(3) Subsection (2) does not confer on a territorial authority the power to change, amend, or overturn a decision made by a development contributions commissioner.

"(4) However, nothing in subsection (3) affects a territorial authority's right to apply for judicial review of a decision made by a development contributions commissioner.

"**199N Objector's right to apply for judicial review unaffected**

Nothing in this subpart affects the right of an objector to a development contribution to apply for judicial review of a decision made by a development contributions commissioner.

"**199O Territorial authority to provide administrative support for development contributions commissioners**

A territorial authority must supply all secretarial and administrative services necessary to enable development contributions commissioners to perform their functions under this Act.

"**199P Interim effect of development contribution objection**

"(1) If a development contribution objection is lodged, the territorial authority may still require the development contribution to

be made, but must not use it until the objection has been determined.

"(2) If a territorial authority does not require a development contribution to be made pending the determination of an objection, the territorial authority may withhold certificates or permissions in accordance with section 208 until the objection has been determined."

56 Section 200 amended (Limitations applying to requirement for development contribution)

(1) After section 200(1)(b), insert:

"(ba) the territorial authority has already required a development contribution for the same purpose in respect of the same building work, whether on the granting of a building consent or a certificate of acceptance; or".

(2) Replace section 200(1)(c) with:

"(c) a third party has funded or provided, or undertaken to fund or provide, the same reserve, network infrastructure, or community infrastructure."

(3) After section 200(2), insert:

"(3) This section does not prevent a territorial authority from requiring a development contribution if—

"(a) income from the following is being used or will be used to meet a proportion of the capital costs of the community facilities for which the development contribution will be used:

"(i) rates:

"(ii) fees and charges:

"(iii) interest and dividends from investments:

"(iv) borrowings:

"(v) proceeds from asset sales; or

"(b) a person required to make the development contribution is also a ratepayer in the territorial authority's district or has paid or will pay fees or charges in respect of the facilities.

"(4) Despite subsection (1)(ba), a territorial authority may require another development contribution to be made for the same purpose if the further development contribution is required to re-

flect an increase in the scale or intensity of the development since the original contribution was required."

57 New section 201A inserted (Schedule of assets for which development contributions will be used)

After section 201, insert:

"**201A Schedule of assets for which development contributions will be used**

"(1) If a territorial authority has determined to seek funding for community facilities under this subpart, the policy required by section 102 must include, in addition to the matters set out in sections 106 and 201, a schedule that lists—

"(a) each new asset, additional asset, asset of increased capacity, or programme of works for which the development contributions requirements set out in the development contributions policy are intended to be used or have already been used; and

"(b) the estimated capital cost of each asset described in paragraph (a); and

"(c) the proportion of the capital cost that the territorial authority proposes to recover through development contributions; and

"(d) the proportion of the capital cost that the territorial authority proposes to recover from other sources.

"(2) For the purposes of subsection (1), assets for which development contributions are required can be grouped together into logical and appropriate groups of assets that reflect the intended or completed programmes of works or capacity expansion.

"(3) A schedule under subsection (1) must also include assets for which capital expenditure has already been incurred by a territorial authority in anticipation of development.

"(4) Information in the schedule under subsection (1) must group assets according to the district or parts of the district for which the development contribution is required, and by the activity or group of activities for which the development contribution is required.

"(5) A territorial authority may make changes to the schedule required by subsection (1) at any time without consultation or further formality, but only if—

"(a) the change is being made to reflect a change of circumstances in relation to an asset that is listed in the schedule or is to be added to the schedule; and

"(b) the change does not increase the total or overall development contribution that will be required to be made to the territorial authority.

"(6) If the territorial authority is satisfied that the schedule or any part of it is too large or impractical to print in hard copy form, the territorial authority may—

"(a) provide the schedule in a publicly accessible electronic format; and

"(b) provide and maintain an electronic link from the development contributions policy to the schedule (if the policy is on the Internet) or state where a hard copy of the schedule can be found and inspected.

"(7) Subject to sections 204, 205, and 206, a territorial authority may use a development contribution for or towards any assets other than those set out in the schedule required by subsection (1) as at the time the development contribution was required, if—

"(a) the assets are for the same general function and purpose as those that were set out in the schedule required under subsection (1) as at the time the development contribution was required; and

"(b) the schedule required by subsection (1) has been updated in accordance with subsection (5), or will be updated when the development contributions policy is next changed or reviewed, to identify the assets that the development contribution has been, or is intended to be, used for or towards."

58 Section 202 amended (Contents of schedule to development contributions policy)

In the heading to section 202, replace "**schedule to development contributions policy**" with "**section 201 schedule**".

59 New section 202A inserted (Reconsideration process to be in development contributions policy)

After section 202, insert:

"**202A Reconsideration process to be in development contributions policy**

"(1) If a territorial authority has determined to seek funding for community facilities under this subpart, the policy required by section 102 must, in addition to the matters set out in sections 106 and 201 to 202, and subject to any regulations made under section 259(1)(e) or (f), set out the process for requesting reconsideration of a requirement under section 199A.

"(2) The process for reconsideration must set out—

"(a) how the request can be lodged with the territorial authority; and

"(b) the steps in the process that the territorial authority will apply when reconsidering the requirement to make a development contribution."

60 Section 203 amended (Maximum development contributions not to be exceeded)

(1) In section 203(1)(b), after "household unit", insert "or accommodation unit".

(2) In section 203(2), after "clause 2 of Schedule 13", insert ", and as amended for any Producers Price Index adjustment adopted in a development contributions policy in accordance with section 106(2B),".

61 Section 206 amended (Alternative uses of development contributions for reserves)

In section 206, replace "section 205" with "sections 197AB(d) and 205".

62 New sections 207A to 207F and cross-heading inserted

After section 207, insert:

"*Development agreements*

"**207A Request to enter development agreement**

"(1) A territorial authority may enter into a development agreement with a developer if—

"(a) the developer has requested in writing that the territorial authority enter into a development agreement with the developer; or

"(b) the territorial authority has requested in writing that the developer enter into a development agreement with the territorial authority.

"(2) This section does not limit section 12.

"**207B Response to request for development agreement**

"(1) A territorial authority that receives a written request from a developer to enter into a development agreement must consider that request without unnecessary delay.

"(2) The territorial authority may—

"(a) accept the request in whole or in part subject to any amendments agreed to by the territorial authority and the developer; or

"(b) decline the request.

"(3) The territorial authority must provide the developer who made the request with a written notice of its decision and the reasons for its decision.

"(4) A developer who receives a request from a territorial authority to enter into a development agreement may, in a written response to the territorial authority,—

"(a) accept the request in whole or in part subject to any amendments agreed to by the territorial authority and the developer; or

"(b) decline the request.

"**207C Content of development agreement**

"(1) A development agreement must be in writing and be signed by all parties that are to be bound by the agreement.

"(2) A development agreement must include—

"(a) the legal name of the territorial authority that will be bound by the agreement; and

"(b) the legal name of the developer that will be bound by the agreement; and

"(c) a description of the land to which the agreement will relate, including its legal description and, if applicable,—

"(i) the street address of the land; and
"(ii) other identifiers of the location of the land, its boundaries, and extent; and

"(d) details of the infrastructure (if any) that each party to the agreement will provide or pay for.

"(3) A development agreement may also include, without limitation, information relating to all or any of the following:

"(a) a description of the development to which the agreement will relate:
"(b) when infrastructure will be provided, including whether the infrastructure will be provided in stages:
"(c) who will own, operate, and maintain the infrastructure being provided:
"(d) the timing and arrangements of any vesting of infrastructure:
"(e) the mechanism for the resolution of disputes under the agreement:
"(f) the arrangements for, and timing of, any transfer of land between the territorial authority and the developer:
"(g) the nature, amount, and timing of any monetary payments to be made between the parties to the agreement:
"(h) the enforcement of the development agreement by a suitable means in the event of a breach, including, but not limited to,—
"(i) a guarantee; or
"(ii) a bond; or
"(iii) a memorandum of encumbrance.

"207D Effect of development agreement

"(1) A development agreement is a legally enforceable contract.

"(2) A development agreement has no force until all parties that will be bound by the agreement have signed it.

"(3) A development agreement does not oblige a territorial authority or any other consent authority to—

"(a) grant a resource consent under the Resource Management Act 1991; or
"(b) issue a building consent under the Building Act 2004; or

"(c) issue a code compliance certificate under the Building Act 2004; or

"(d) grant a certificate under section 224 of the Resource Management Act 1991; or

"(e) grant an authorisation for a service connection.

"(4) A territorial authority or other consent authority must not refuse to grant or issue a consent, certificate, or authorisation (as the case may be) referred to in subsection (3) on the basis that a development agreement has not been entered into.

"(5) If there is any conflict between the content of a development agreement and the application of a relevant development contributions policy in relation to that agreement, the content of the development agreement prevails.

"**207E Restrictions on use of development agreement**

"(1) A development agreement must not require a developer to provide—

"(a) infrastructure of a nature or type for which the developer would not otherwise have been required to make a development contribution; or

"(b) infrastructure of a higher standard than that which would have been provided for if the developer had been required to make a development contribution; or

"(c) infrastructure of a scale that would exceed the infrastructure that would otherwise have been provided for if the developer had been required to make a development contribution.

"(2) However, a developer may agree to provide infrastructure of a nature or scale that is additional to, of greater capacity than, or of a different type to the infrastructure that would have been provided if the developer had been required to make a development contribution.

"**207F Amendment or termination of development agreement**

"(1) A development agreement may be amended at any time through mutual agreement of all parties who are signatories to the agreement.

"(2) A development agreement terminates—

"(a) on a date set out in the development agreement; or

"(b) on the date on which all actions, undertakings, or obligations that were agreed to by each of the signatories to the agreement have been fulfilled; or

"(c) on a date mutually agreed in writing by all parties that are signatories to the agreement."

63 Section 208 amended (Powers of territorial authority if development contributions not paid or made)

After section 208(b), insert:

"(ba) in the case of a development contribution required under section 198(4A), withhold a certificate of acceptance under section 99 of the Building Act 2004:".

64 Section 235 amended (Offences by members of local authorities)

In the heading to section 235, after "**authorities**", insert "**and local boards**".

65 Section 252 amended (Recovery of debts)

In section 252, after "done by the local authority", insert ", and money payable by a person to the local authority as a development contribution,".

66 Section 255 amended (Application of this Part)

In section 255, insert as subsection (2):

"(2) However, the Minister may exercise the powers in this Part in relation to a local board and, for that purpose, this Part applies, with any necessary modifications, as if a local board were a local authority."

67 Section 259 amended (Regulations)

Replace section 259(1)(e) with:

"(e) prescribing the form or content of applications, notices, or any other documentation or information relating to the reconsideration of requirements for development contributions or to development contribution

objections, and the manner in which any document or information is to be made available or provided:

"(f) prescribing, in addition to any matters prescribed under paragraph (e), the practice and procedure for hearing and deciding development contribution objections:

"(g) providing for any matters that are contemplated by this Act, necessary for giving it full effect, or necessary for its due administration."

68 New Schedule 1AA inserted

Before Schedule 1, insert the Schedule 1AA set out in Schedule 1 of this Act.

69 Schedule 3 amended

Amend Schedule 3 as set out in Schedule 2 of this Act.

70 Schedule 6 amended

Amend Schedule 6 as set out in Schedule 3 of this Act.

71 Schedule 7 amended

Amend Schedule 7 as set out in Schedule 4 of this Act.

72 Schedule 10 amended

Amend Schedule 10 as set out in Schedule 5 of this Act.

73 Schedule 13 amended

Amend Schedule 13 as set out in Schedule 6 of this Act.

74 New Schedule 13A inserted

After Schedule 13, insert the Schedule 13A set out in Schedule 7 of this Act.

75 Consequential amendments to principal Act

Amend the principal Act as set out in Schedule 8 of this Act.

Part 2
Amendments to other enactments

76 Amendments to Local Electoral Act 2001

Amend the Local Electoral Act 2001 as set out in Schedule 9 of this Act.

77 Amendments to Local Government (Auckland Council) Act 2009

Amend the Local Government (Auckland Council) Act 2009 as set out in Schedule 10 of this Act.

78 Consequential amendments to other enactments

Amend the enactments specified in Schedule 11 as set out in that schedule.

Schedule 1

s 68

New Schedule 1AA inserted in principal Act

Schedule 1AA

s 8A

Application, savings, and transitional provisions relating to amendments to this Act made by the Local Government Act 2002 Amendment Act 2014

1 Transitional provision relating to triennial agreements

(1) A triennial agreement that is in force on the date of commencement of section 9 of the Local Government Act 2002 Amendment Act 2014—

(a) is not required to comply with the requirements of section 15 as replaced by section 9 of the Local Government Act 2002 Amendment Act 2014; but

(b) may be replaced by a new triennial agreement that does comply with those requirements at any time; and

(c) must be replaced by a triennial agreement that does comply with those requirements not later than 1 March after the next triennial general election of members.

(2) A triennial agreement to which subclause (1) applies remains in force until it is replaced by another agreement.

2 Transitional provision relating to delivery of services

(1) A local authority must complete its first reviews under section 17A in relation to governance, funding, and delivery of any infrastructure, service, or regulatory function within 3 years of the commencement of section 12 of the Local Government Act 2002 Amendment Act 2014.

(2) Subclause (1) is subject to subsections (2) and (3) of section 17A.

3 Transitional provision relating to scope of local government reorganisations

(1) The amendments to section 24 and Schedule 3 made by sections 14 and 69 and Schedule 2 of the Local Government Act 2002 Amendment Act 2014 apply to every local government

Schedule 1AA—*continued*

reorganisation for which no final proposal has been publicly notified under clause 22 of Schedule 3 at the date of commencement of those amending sections.

(2) To avoid doubt, subclause (1) does not limit or affect the obligations and powers of the Local Government Commission under clause 21 of Schedule 3.

4 Transitional provision relating to significance and engagement policy

(1) A local authority must adopt a significance and engagement policy under section 76AA (inserted by section 20 of the Local Government Act 2002 Amendment Act 2014) no later than 1 December 2014.

(2) Despite the repeal of section 90, every policy on significance adopted under that section remains in force until a significance and engagement policy is adopted under section 76AA.

(3) Until a policy is adopted under section 76AA, every reference to such a policy must be treated as a reference to a policy on significance adopted under section 90.

5 Requirement to enter into agreement under clause 30A of Schedule 7

(1) This clause applies to a local authority that appointed a joint committee under clause 30(1)(b) of Schedule 7 before the date of commencement of clause 30A of Schedule 7 if that committee remains in existence after that date.

(2) The local authority must, within 12 months of the date of commencement of clause 30A of Schedule 7, enter into an agreement under that clause with every other local authority or public body that has appointed members to that joint committee.

(3) If an agreement under clause 30A of Schedule 7 is not entered into within the period specified in subclause (2), the joint committee is deemed to be discharged by the local authority.

(4) Nothing in this clause applies if the joint committee referred to in subclause (1) was constituted or continued by, or required

Schedule 1AA—*continued*

to be constituted or continued by, an enactment other than this Act.

6 Savings provision relating to development contributions made or required before commencement

(1) Territorial authorities may retain any development contributions made to them before the commencement of this clause, as if the Local Government Act 2002 Amendment Act 2014 had not been enacted.

(2) The enactment of the Local Government Act 2002 Amendment Act 2014 does not affect the collection of any development contribution that was required before the commencement of this clause.

7 Transitional provision relating to certain consents, certificates, and requests

(1) This clause applies to an application for a resource consent, building consent, certificate of acceptance, or authorisation for service connection that, at the commencement of this clause,—

(a) has been submitted to a territorial authority accompanied by all required information; and

(b) in respect of which a development contribution has yet to be required.

(2) The application must be dealt with, and any development contribution must be required, collected, and paid, as if the Local Government Act 2002 Amendment Act 2014 had not been enacted.

8 Transitional provision regarding development contributions for community infrastructure

(1) This clause applies to any work or programme that—

(a) was within the definition of community infrastructure as it was immediately before the commencement of section 51 of the Local Government Act 2002 Amendment Act 2014, but is not within that definition as it was immediately after the commencement of section 51 of

Schedule 1AA—*continued*

the Local Government Act 2002 Amendment Act 2014; and

(b) in relation to which development contributions were authorised by a development contributions policy in force immediately before the commencement of section 51 of the Local Government Act 2002 Amendment Act 2014.

(2) In relation to a resource consent, building consent, certificate of acceptance, or authorisation for service connection for which an application is submitted on or after the commencement of this clause, a territorial authority may require and collect development contributions in relation to the work or programme if, and only if,—

(a) immediately before the commencement of this clause,—

(i) the work or programme had been completed; or

(ii) substantial progress or effort had been made to complete the work or programme; and

(b) the development contributions are authorised by the development contributions policy in force at the time the application is made.

(3) If development contributions are required under subclause (2),—

(a) the work or programme must be separately identified in the schedule required by section 201A; and

(b) for each work or programme separately identified, the following must be identified in that schedule, in addition to the matters described in section 201A(1):

(i) the amount of the total cost of capital expenditure that is still to be recovered through development contributions (at the time the schedule is updated); and

(ii) the date by which the territorial authority expects to complete recovery of that cost.

(4) If subclause (2) does not apply, the territorial authority must not require a development contribution in relation to that work or programme.

Schedule 1AA—*continued*

9 Transitional provision relating to development contributions policy

(1) Until 30 June 2015 a development contributions policy that was in force immediately before the commencement of this clause is not invalid solely because it is inconsistent with this Act as amended by the specified provisions.

(2) No later than 1 December 2014, the territorial authority must make publicly available the information required by section 82A(2) in respect of changes proposed to comply with subclause (3).

(3) No later than 30 June 2015, the development contributions policy must be amended to comply with this Act as amended by the specified provisions.

(4) In this clause, the **specified provisions** means sections 50, 51(2), and 53 of the Local Government Act 2002 Amendment Act 2014.

(5) Nothing in this clause limits—

(a) the application (before, on, or after 30 June 2015) of clause 8; or

(b) the application of the amendments to this Act made by section 53 of the Local Government Act 2002 Amendment Act 2014.

10 Transitional provision relating to additions to development contributions policy

(1) Until the date that is 1 month after the date on which sections 57 and 59 of the Local Government Act 2002 Amendment Act 2014 come into force, a development contributions policy that was in force immediately before the commencement of this clause is not invalid solely because it is inconsistent with section 201A or 202A.

(2) No later than the date referred to in subclause (1), a territorial authority to which section 201A applies must amend its development contributions policy by including a schedule in accordance with that section.

Schedule 1AA—*continued*

(3) No later than the date referred to in subclause (1), a territorial authority must amend its development contributions policy to comply with section 202A.

(4) A territorial authority may make the amendments to its development contributions policy required by subclauses (2) and (3) by resolution without consultation or further formality.

(5) Nothing in subclause (1) limits clause 8(3).

11 Transitional provision relating to long-term plans

(1) The repeal of section 84 by section 26 of the Local Government Act 2002 Amendment Act 2014, and the amendments to sections 93 and 94 and Schedule 10 made by sections 30 and 32 and the first 7 items in Schedule 5 of that Act, do not apply to a long-term plan for a period commencing before 1 July 2015, and nothing in this Act requires such a long-term plan to be amended to ensure it complies with those requirements.

(2) Sections 93A to 93G and 101B, as inserted by sections 31 and 36 of the Local Government Act 2002 Amendment Act 2014, do not apply to a long-term plan for a period commencing before 1 July 2015, and nothing in this Act requires such a long-term plan to be amended to ensure it complies with those requirements.

(3) The amendments to this Act referred to in subclauses (1) and (2) apply only to long-term plans for the period commencing on 1 July 2015 and subsequent long-term plans.

12 Transitional provision relating to annual plans

(1) The repeal of section 85 by section 27 of the Local Government Act 2002 Amendment Act 2014, and the amendments to section 95 and Schedule 10 made by section 33 and the 8th and 9th items in Schedule 5 of that Act, do not apply to an annual plan for a period commencing before 1 July 2016, and nothing in this Act requires such an annual plan to be amended to ensure it complies with those requirements.

(2) Sections 82A(3), 95A, and 95B, as inserted by sections 24 and 34 of the Local Government Act 2002 Amendment Act 2014, do not apply to an annual plan for a period commencing

Schedule 1AA—*continued*

before 1 July 2016, and nothing in this Act requires such an annual plan to be amended to ensure it complies with those requirements.

(3) The amendments to this Act referred to in subclauses (1) and (2) apply only to annual plans for the period commencing on 1 July 2016 and ending on 30 June 2017 and subsequent annual plans.

13 Transitional provision relating to annual reports

The amendments to Schedule 10 made by the 10th to 13th items in Schedule 5 of the Local Government Act 2002 Amendment Act 2014 apply only to annual reports for the period commencing on 1 July 2013 and ending on 30 June 2014 and subsequent annual reports.

Schedule 2
s 69

Schedule 3 amended

Clause 2

In clause 2, definition of **affected area**, replace paragraph (c) with:

"(c) the area comprising the whole district or region of an affected local authority if the Commission has declared it to be an affected area because the operational scale, scope, or capability of the local authority would be materially affected if local government were to be reorganised in accordance with the reorganisation application, draft proposal, or final proposal:

"(d) in the case of a local board reorganisation application, or a draft proposal or final proposal resulting from such an application, the area comprising the whole district of the affected unitary authority".

In clause 2, insert in its appropriate alphabetical order:

"**local board reorganisation application** means a reorganisation application that does not propose changes other than 1 or more of the changes described in section 24(1)(g) to (k) within the district of a unitary authority".

Clause 4

Replace clause 4(b) with:

"(b) the application relates to a matter specified in section 24 in respect of which the Commission has specified a period under clause 21 and that period has not ended."

Clause 9

After clause 9(3), insert:

"(4) In the case of a local board reorganisation application, the Commission—

"(a) must give notice under subclause (1) to any community boards and local boards within the district of the affected local authority; and

"(b) must, in every notice under subclause (1), outline the limitation on the scope of alternative applications set out in clause 10(2); but

"(c) is not required to give notice under subclause (1)(b)(ii)."

Clause 10

After clause 10(2), insert:

"(3) In the case of a local board reorganisation application, an alternative application may not propose the abolition or union of the affected local authority, or any changes to the boundaries or functions of that local authority."

Clause 11

After clause 11(6), insert:

"(6A) If the application made under clause 3 is a local board reorganisation application,—

"(a) subclauses (5) and (6) do not apply; and

"(b) the reasonably practicable options must not include any proposed change to the boundaries or functions of the affected local authority; and

"(c) the Commission must be satisfied that the governance arrangements proposed under a reasonably practicable option will—

"(i) enable democratic local decision making by, and on behalf of, communities throughout the affected area; and

"(ii) provide fair and effective representation for individuals and communities throughout the affected area; and

"(iii) enable equitable provision to be made for the current and future well-being of all the communities within the affected area."

Replace clause 11(8) with:

"(8) If the Commission identifies 2 or more reasonably practicable options, the Commission must determine its preferred option, having regard to—

"(a) the criteria in clause 12(2), if subclause (6A) applies; or

"(b) the criteria in clause 12(1) in any other case."

Clause 12

In clause 12, insert as subclause (2):

"(2) For the purposes of clause 11(8)(a), the Commission must be satisfied that its preferred option—

Clause 12—*continued*

"(a) will best promote, in the affected area, the purpose of local government as specified in section 10; and

"(b) will best promote the interests of the communities in the district in terms of—

"(i) the benefits to all communities of a consistent or co-ordinated approach in the district; and

"(ii) the benefits to particular communities of reflecting the particular needs and preferences of each community."

Clause 14

After clause 14(2)(c)(iv), insert:

"(v) the statutory obligations of the local authority; and".

After clause 14(3)(e), insert:

"(ea) any local board areas and any local boards of the local authority; and".

Clause 15

Replace clause 15 with:

"**15 Local boards**

"(1) This clause applies if the Commission has determined, under clause 11, that the preferred option for local government of an area is a unitary authority.

"(2) In preparing a draft proposal in relation to the affected area, the Commission may include provisions for 1 or more local boards if it considers that good local government of the district of the unitary authority would be best promoted by providing for local boards in all or part of the district.

"(3) Provisions for local boards must be consistent with subpart (1A) of Part 4 of this Act.

"(4) A draft proposal must, in addition to the matters specified in clause 14, specify—

"(a) the number and names of local board areas within the district; and

"(b) the boundaries of—

Clause 15—*continued*

"(i) each local board area; and
"(ii) electoral subdivisions, if any, of each local board area; and

"(c) the number of elected members of the local board for each local board area and, if a local board area is subdivided for electoral purposes, the number of members to be elected by the electors of each subdivision; and

"(d) whether each local board may include members appointed by the governing body of the unitary authority in accordance with section 48E(b); and

"(e) for each local board, whether the chairperson of the local board is to be—
"(i) elected by the members of the local board from among themselves using one of the systems of voting set out in clause 25(3) and (4) of Schedule 7; or
"(ii) directly elected to that office by the electors of the local board area.

"(5) In determining the matters referred to in subclause (4)(a), (b), (c), or (d), the Commission must ensure that—
"(a) the boundaries of the local board areas will—
"(i) enable democratic local decision making by, and on behalf of, communities throughout the district; and
"(ii) enable equitable provision to be made for the current and future well-being of all communities within the affected area; and

"(b) the boundaries of local board areas and any subdivisions of those areas coincide with boundaries of the current statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes; and

"(c) so far as is practicable, local board area boundaries coincide with ward boundaries.

"(6) Clause 14(4) does not apply to a draft proposal under subclause (2).

Clause 15—*continued*

"(7) To avoid doubt, clauses 14(3)(f) and 19 do not apply to any local board area included in a draft proposal under subclause (2)."

Clause 20

Replace clause 20(1)(c)(ix) with:

"(ix) the chief executive of a department of State that—

"(A) is responsible for administering legislation that confers the statutory obligations referred to in clause 14(2)(c)(v); or

"(B) may, in the opinion of the Commission, have an interest in or be affected by the proposal; and".

Clause 21

Replace clause 21(5) with:

"(5) A final proposal may, for the purposes of clause 4, specify a period or periods in relation to any or all of the matters specified in section 24."

Clause 42

Replace clause 42(1)(d) with:

"(d) may provide for—

"(i) the application, with the modifications that may be necessary or desirable, of any provisions of any Act for the time being in force that are considered appropriate to the particular matter; and

"(ii) without limiting subparagraph (i), the exercise—

"(A) by a territorial authority of any statutory obligation conferred on regional councils by any Act; or

"(B) by a regional council of any statutory obligation conferred on territorial authorities by any Act; and".

New clause 42A

After clause 42, insert:

"**42A Content of reorganisation schemes in respect of local boards**

Without limiting clause 42, a reorganisation scheme in respect of a final proposal to which clause 15(2) applies must make an initial allocation of decision-making responsibility for the non-regulatory activities of the unitary authority within each local board area between the authority's governing body and the local board in accordance with section 48L."

Clause 43

Replace clause 43(h) with:

"(h) provisions requiring the establishment, by 1 or more affected local authorities, of a council-controlled organisation, which may specify—

"(i) the initial constitution of the council-controlled organisation; and

"(ii) the objectives and responsibilities of the council-controlled organisation; and

"(iii) the nature and content of any agreement under section 17A required between the council-controlled organisation and any affected local authority; and

"(iv) any other matter relating to the establishment of the council-controlled organisation that the Commission considers desirable:

"(ha) provisions for committees for the first term of an affected local authority, which may specify—

"(i) the initial membership of a committee; and

"(ii) the terms of reference of a committee; and

"(iii) any initial delegations to a committee:

"(hb) provisions for a joint committee of an affected local authority, with 1 or more other local authorities or other public bodies, which may specify—

"(i) the initial membership of the committee; and

"(ii) the terms of reference of the committee; and

"(iii) any initial delegations to the committee by the affected local authority; and

Clause 43—*continued*

"(iv) any other matter relating to the appointment, operation, or responsibilities of the joint committee that the Commission considers desirable:".

In clause 43, insert as subclause (2):

"(2) The Commission must not include provision for a joint committee in a reorganisation scheme without the written agreement of—

"(a) every local authority, other than an affected local authority, that is to be a party to the joint committee; and

"(b) every other public body that is to be a party to the joint committee."

Schedule 3
s 70

Schedule 6 amended

Clause 1

After clause 1(2), insert:

"(3) A community may not be constituted for any part of a district that is within a local board area."

Schedule 4

s 71

Schedule 7 amended

Schedule heading

Replace the Schedule 7 heading with:

Schedule 7

ss 5(1), 41(1), 42(1), 48, 48Q, 53(1), 54, 59(2)

Local authorities, local boards, community boards, and their members

New clause 25A

After clause 25, insert:

"**25A Attendance at meetings by audio link or audiovisual link**

"(1) A member of a local authority, or of a committee of a local authority, has, unless lawfully excluded, the right to attend any meeting of the local authority or committee by means of audio link or audiovisual link if—

"(a) the standing orders of the local authority permit attendance at that meeting by means of audio link or audiovisual link; and

"(b) the presiding member at that meeting is satisfied that all conditions and requirements in the standing orders in relation to attendance at that meeting by means of audio link or audiovisual link are met.

"(2) A person other than a member of a local authority, or committee, may participate in a meeting of the local authority or committee by means of audio link or audiovisual link if—

"(a) the standing orders of the local authority permit participation at that meeting by persons other than members by means of audio link or audiovisual link; and

"(b) the presiding member at that meeting is satisfied that all conditions and requirements in the standing orders are met in relation to—

"(i) participation at that meeting by persons other than members; and

"(ii) the use of audio link or audiovisual link for that participation.

"(3) The person presiding must, for the purposes of subclause (1) or (2), ensure that—

New clause 25A—*continued*

"(a) technology for the audio link or audiovisual link is available and is of suitable quality; and

"(b) the procedure for the use of that technology in all the circumstances of the particular meeting will ensure that—

"(i) all those participating in the meeting can hear and be heard by each other; and

"(ii) in relation to subclause (1), the attendance of a member by means of audio link or audiovisual link does not reduce the accountability or accessibility of that person in relation to the meeting; and

"(iii) the requirements of Part 7 of the Local Government Official Information and Meetings Act 1987 are met.

"(4) Despite subclauses (1) and (3), a member of the local authority who is not physically present at the meeting is not to be counted as present for the purposes of clause 23.

"(5) Nothing in this clause requires a local authority to make technology for an audio link or audiovisual link available.

"(6) A document may be given or shown to, or by, a person appearing at a meeting by way of audio link or audiovisual link—

"(a) by transmitting it electronically; or

"(b) by use of audiovisual link (if the person is appearing by audiovisual link); or

"(c) by any other manner that the person presiding thinks fit.

"(7) In this clause,—

"**audio link** means facilities that enable audio communication between participants at a meeting when 1 or more of them is not physically present at the place of the meeting

"**audiovisual link** means facilities that enable audio and visual communication between participants at a meeting when 1 or more of them is not physically present at the place of the meeting."

Clause 27

After clause 27(4), insert:

"(5) Where a local authority wishes to permit the use of audio link or audiovisual link for the purposes of clause 25A(1)(a), the local authority—

"(a) must first provide for this matter in its standing orders; and

"(b) may include in its standing orders matters concerning the use of audio links or audiovisual links at meetings, including, without limitation,—

"(i) specifying the type or types of meeting at which members may participate by way of audio link or audiovisual link; and

"(ii) attendance requirements; and

"(iii) prescribing any method or technology of audio links and audiovisual links; and

"(iv) any other requirements that the local authority considers are appropriate to maintain public confidence in the transparency and integrity of decision-making processes and the conduct of members during these processes; and

"(v) specifying that any person wishing to participate in this manner must make prior arrangement with the local authority."

Clause 30

In clause 30(1)(b), after "body", insert "in accordance with clause 30A".

Repeal clause 30(8), (9), and (10).

New clause 30A

After clause 30, insert:

"**30A Joint committees**

"(1) A local authority may not appoint a joint committee under clause 30(1)(b) unless it has first reached agreement with every other local authority or public body that is to appoint members of the committee.

"(2) An agreement under subclause (1) must specify—

New clause 30A—*continued*

"(a) the number of members each local authority or public body may appoint to the committee; and
"(b) how the chairperson and deputy chairperson of the committee are to be appointed; and
"(c) the terms of reference of the committee; and
"(d) what responsibilities (if any) are to be delegated to the committee by each local authority or public body; and
"(e) how the agreement may be varied.

"(3) An agreement under subclause (1) may also specify any other matter relating to the appointment, operation, or responsibilities of the committee that the parties agree.

"(4) A local authority or public body must not enter into an agreement under subclause (1) that is inconsistent with any enactment applying to that local authority or public body, or its members.

"(5) A joint committee appointed under clause 30(1)(b) is deemed to be both a committee of the appointing local authority and a committee of each other local authority or public body that has appointed members to the committee.

"(6) This Part applies to a joint committee except that—
"(a) the powers to discharge any individual member and appoint another in his or her stead must be exercised by the local authority or public body that made the appointment; and
"(b) the quorum at a meeting of the committee consists of—
"(i) half of the members if the number of members (including vacancies) is an even number; or
"(ii) a majority of members if the number of members (including vacancies) is an odd number; and
"(c) the following matters may be varied by an agreement under subclause (1):
"(i) the procedure by which the chairperson and deputy chairperson are to be appointed:
"(ii) the procedure by which the chairperson or deputy chairperson may be removed from that office:
"(iii) whether a quorum must include 1 or more members appointed by each party, or any party:

New clause 30A—*continued*

"(iv) the extent to which the standing orders of any local authority or public body apply to meetings of the joint committee.

"(7) Nothing in this clause applies to a joint committee constituted or continued by, or required to be constituted or continued by, an enactment other than this Act."

New Part 1A

After clause 36A, insert:

"Part 1A
"Provisions relating to local boards and their members

"**36B Code of conduct**

Each member of each local board must comply with the code of conduct adopted by the governing body under clause 15.

"**36C Delegations to local boards from governing body**

"(1) The governing body may delegate to a local board any of its responsibilities, duties, and powers, except the powers described in clause 32(1)(a) to (f).

"(2) However, nothing in subclause (1) restricts the governing body's power to delegate to a local board the power to do anything precedent to the exercise by the governing body of any power referred to in clause 32(1)(a) to (f).

"(3) In deciding whether to make a delegation, the governing body must weigh the benefits of reflecting local circumstances and preferences (through a delegation) against the importance and benefits of using a single approach in the district (through itself retaining the responsibility, duty, or power concerned).

"(4) A local board to which the governing body has delegated a responsibility, duty, or power may, without confirmation by the governing body, exercise or perform the responsibility, duty, or power in the same manner and with the same effect as the governing body could have exercised or performed it.

New Part 1A—*continued*

Part 1A—*continued*

"(5) No delegation under this section relieves the governing body of the liability or legal responsibility to perform or ensure the performance of any responsibility or duty.

"**36D Delegations by local boards**

"(1) For the purposes of efficiency and effectiveness in the conduct of a local board's business, a local board may delegate to a committee, subcommittee, or member of the local board, or to an officer of the unitary authority, any of its responsibilities, duties, and powers, except—

"(a) the duty to identify and communicate the interests and preferences of the people in its local board area in relation to the content of the strategies, policies, plans, and bylaws of the unitary authority:

"(b) the power to propose a bylaw or an amendment to a bylaw:

"(c) the power to confirm a bylaw or modify a proposed bylaw:

"(d) the power to propose the revocation of a bylaw:

"(e) the duty to adopt the local board plan for its area:

"(f) the duty to enter into a local board agreement for its area with the governing body of the unitary authority:

"(g) the power to apply to the Commission for a binding determination in respect of a dispute between the local board and the governing body:

"(h) a responsibility, duty, or power that this Act or any other Act expressly provides may not be delegated.

"(2) However, nothing in subclause (1) restricts the power of a local board to delegate to a committee, subcommittee, or member of the local board, or to an officer of the unitary authority, the power to do anything precedent to the performance or exercise by the local board of a responsibility, duty, or power specified in that subclause.

"(3) Subclause (1) applies to any responsibilities, duties, or powers delegated to the local board by the governing body subject

New Part 1A—*continued*

Part 1A—*continued*

to any conditions, limitations, or prohibitions imposed by the governing body when making the original delegation.

"(4) A committee, subcommittee, or person to which or to whom a local board has delegated a responsibility, duty, or power, may,—

"(a) without confirmation by the local board, exercise or perform the responsibility, duty, or power in the same manner and with the same effect as the local board could have exercised or performed it:

"(b) delegate the responsibility, duty, or power to a subcommittee or person, subject to any conditions, limitations, or prohibitions imposed by the local board when making the original delegation.

"(5) No delegation relieves the local board of the liability or legal responsibility to perform or ensure the performance of any responsibility or duty."

Schedule 5
s 72

Schedule 10 amended

Clause 3

In clause 3(2), replace "must" with "may".

Clause 9

Replace clause 9 with:

"**9 Financial strategy and infrastructure strategy**

A long-term plan must include a local authority's financial strategy described under section 101A and infrastructure strategy described under section 101B."

Clause 10

In clause 10, after "policy", insert "already".

Clause 11

Replace clause 11 with:

"**11 Significance and engagement policy**

A long-term plan must contain—

"(a) a summary (or other description) of the local authority's significance and engagement policy under section 76AA; and

"(b) a reference to where the full policy can be found, which may be done by providing a link to the relevant document on an Internet site maintained by or on behalf of the local authority."

New clause 15A

After clause 15, insert:

"**15A Rating base information**

A long-term plan must state, for each year covered by the plan, the projected number of rating units within the district or region of the local authority at the end of the preceding financial year."

Clause 17

In clause 17(b)(i), replace "useful life" with "life cycle".

New clause 17A

After clause 17, insert:

"**17A Additional information to be included in long-term plan for unitary authority with local boards**

In the case of a unitary authority for a district that includes 1 or more local board areas, a long-term plan must also—

"(a) identify the non-regulatory activities of the unitary authority for which decision-making responsibility is allocated to 1 or more local boards under section 48L or under section 17 of the Local Government (Auckland Council) Act 2009:

"(b) group the activities to which paragraph (a) relates separately from any other activity or group of activities of the unitary authority (there may be 1 or more groups, but each group of activities specified in clause 2(2) must be separately identified):

"(c) include the estimated local board funding allocation for each local board for each year to which the long-term plan relates:

"(d) include the local board agreement for each local board area for the first year to which the long-term plan relates."

New clause 20A

After clause 20, insert:

"**20A Rating base information**

An annual plan must state—

"(a) the projected number of rating units within the district or region of the local authority at the end of the preceding financial year:

"(b) the projected total capital value of rating units within the district or region of the local authority at the end of the preceding financial year:

"(c) the projected total land value of rating units within the district or region of the local authority at the end of the preceding financial year."

New clause 21A

After clause 21, insert:

"**21A Additional information to be included in annual plan for unitary authority with local boards**

In the case of a unitary authority for a district that includes 1 or more local board areas, an annual plan must also, for the year to which the plan relates,—

"(a) identify the non-regulatory activities of the unitary authority for which decision-making responsibility is allocated to 1 or more local boards under section 48L or section 17 of the Local Government (Auckland Council) Act 2009:

"(b) include the estimated local board funding allocation for each local board:

"(c) include the local board agreement for each local board area."

Clause 24

In clause 24(3), replace "must" with "may".

New clause 30A

After clause 30, insert:

"**30A Rating base information**

The annual report must state—

"(a) the number of rating units within the district or region of the local authority at the end of the preceding financial year:

"(b) the total capital value of rating units within the district or region of the local authority at the end of the preceding financial year:

"(c) the total land value of rating units within the district or region of the local authority at the end of the preceding financial year."

New clause 31A

After clause 31, insert:

"**31A Insurance of assets**

An annual report must state, as at the end of the financial year,—

"(a) the total value of all assets of the local authority that are covered by insurance contracts, and the maximum amount to which they are insured; and

"(b) the total value of all assets of the local authority that are covered by financial risk sharing arrangements, and the maximum amount available to the local authority under those arrangements; and

"(c) the total value of all assets of the local authority that are self-insured, and the value of any fund maintained by the local authority for that purpose."

New clause 34A

After clause 34, insert:

"**34A Additional information to be included in annual report of unitary authority with local boards**

"(1) In the case of a unitary authority for a district that includes 1 or more local board areas, an annual report must also include, in respect of local activities for each local board area, an audited statement that—

"(a) compares the level of service achieved in relation to the activities with the performance target or targets for the activities (as stated in the local board agreement for that year); and

"(b) specifies whether any intended changes to the level of service have been achieved; and

"(c) gives the reasons for any significant variation between the level of service achieved and the intended level of service.

"(2) Each local board must comment on the matters included in the annual report under subclause (1) in respect of its local board area, and the unitary authority must include those comments in the annual report.

New clause 34A—*continued*

"(3) In this clause, **local activities** or **activities** means the non-regulatory activities of the unitary authority in respect of which a local board is allocated decision-making responsibility under section 48L or under section 17 of the Local Government (Auckland Council) Act 2009."

Schedule 6
s 73

Amendment to Schedule 13

Clause 1

In clause 1, insert as subclauses (2) and (3):

"(2) A territorial authority may identify capital expenditure for the purposes of calculating development contributions in respect of assets or groups of assets that will be built after the period covered by the long-term plan and that are identified in the development contributions policy.

"(3) The total cost of capital identified in subclause (1) may in part relate to assets intended to be delivered beyond the period covered by a territorial authority's long-term plan if—

"(a) the assets concerned are identified in the development contributions policy; and

"(b) the total cost of capital expenditure does not exceed that which relates to the period over which development has been assessed for the purpose of setting development contributions."

Schedule 7

s 74

New Schedule 13A inserted in principal Act

Schedule 13A

ss 199E, 199I

Procedure relating to development contribution objections

Part 1
General provisions

1 Lodgment of objection

(1) A person exercises the right under section 199C to lodge a development contribution objection by serving notice of the objection on the territorial authority within 15 working days after the date on which the person received notice from the territorial authority of the level of development contribution that the territorial authority requires.

(2) However, if a person has received notice of the outcome of a reconsideration under section 199B, the 15-working-day period in subclause (1) begins on the day after the date on which the person receives the notice of the outcome.

(3) The notice of objection under subclause (1) must—

(a) be in writing; and

(b) set out the grounds and reasons for the objection; and

(c) state the relief sought; and

(d) state whether the objector wishes to be heard on the objection.

(4) A territorial authority may, in its discretion, allow an objection to be served on it after the 15-working-day period specified in subclause (1) or (2), as the case may be, if satisfied that exceptional circumstances exist.

2 Withdrawal of objection

(1) A person who has served notice of an objection in accordance with clause 1 may, at any time, withdraw the objection by serving notice of the withdrawal on the territorial authority and any development contributions commissioner appointed to decide the objection.

Schedule 13A—*continued*
Part 1—*continued*

(2) The withdrawal of an objection under subclause (1) does not affect the right of the territorial authority to recover any actual and reasonable costs in respect of the objection under section 150A.

(3) The withdrawal of an objection under subclause (1) does not affect the right of the person to lodge another objection, whether on the same or different grounds, under clause 1 within the periods specified in that clause.

3 Selection of development contributions commissioners

(1) A territorial authority that has received an objection under clause 1 must, as soon as practicable after receiving the objection, select not more than 3 development contributions commissioners to decide the objection.

(2) The development contributions commissioners must—

(a) be selected from persons named in a register of commissioners appointed by the Minister under section 199F or be selected in accordance with section 199H(2); and

(b) not be elected members or employees of the territorial authority whose development contribution requirement is the subject of the objection; and

(c) not be board members, shareholders, owners, employees, or contractors of the objector; and

(d) in the opinion of the territorial authority, individually or collectively have the skills, knowledge, and experience necessary to—

(i) conduct a fair and appropriate hearing; and

(ii) understand and determine the principal matters in contention.

(3) If the territorial authority proposes to select more than 1 commissioner, it must appoint one of them as the chairperson.

Schedule 13A—*continued*
Part 1—*continued*

4 Development contributions commissioners to set date for exchange of evidence

(1) Development contributions commissioners who have been selected to decide an objection must give the parties notice of the date by which briefs of evidence relating to the objection must be exchanged.

(2) The briefs of evidence, and any additional or amended evidence, must be exchanged not later than 10 working days before—

(a) the commencement of a hearing under clause 6; or

(b) if there is no hearing, a date fixed by the commissioners.

(3) Copies of the statements of evidence referred to in a brief of evidence must be provided to—

(a) each development contributions commissioner appointed to decide the objection; and

(b) the territorial authority; and

(c) the objector.

5 Obligation to hold hearing

A hearing on an objection need not be held if—

(a) the objector has—

(i) indicated that the objector does not wish to be heard; or

(ii) otherwise agreed that no hearing is required; or

(b) the development contributions commissioners who will hear and decide the objection are satisfied, having regard to the nature of the objection and the evidence already provided, that they are able to determine the objection without a hearing.

6 Hearing date and notice

(1) If a hearing on an objection is to be held, the development contributions commissioners must fix the date, time, and place of the hearing.

Schedule 13A—*continued*
Part 1—*continued*

(2) Notice of a hearing must be served on the territorial authority and the objector at least 10 working days before the date on which the hearing commences.

7 Replies to briefs of evidence where no hearing is held

(1) Where no hearing is to be held, a development contributions commissioner may direct that the territorial authority and the objector provide written replies to each other's evidence and provide copies of those replies to the commissioners.

(2) A direction made under subclause (1) must specify the period within which the written replies must be served on—
- (a) the development contributions commissioners; and
- (b) the territorial authority; and
- (c) the objector.

8 Development contribution objection hearings

(1) If a hearing is required, it must be held on the date and at the time and place specified in the notice given under clause 6.

(2) The development contributions commissioners must establish a procedure that is appropriate and fair in the circumstances and that—
- (a) avoids unnecessary formality; and
- (b) recognises tikanga Māori where appropriate.

(3) A hearing under this clause need not be held in public.

9 Decisions on objections

(1) Development contributions commissioners must give a decision on an objection in writing, whether or not a hearing is held.

(2) A decision on an objection must—
- (a) uphold all or part of the objection; or
- (b) dismiss all or part of the objection.

(3) A decision may quash, or direct that amendments be made to, the requirement for a development contribution.

(4) A decision must be given in writing and state—

Schedule 13A—*continued*
Part 1—*continued*

(a) the reasons for the decision; and
(b) a summary of the issues that were in contention; and
(c) the relevant provisions of the development contributions policy of the territorial authority that required the development contribution; and
(d) a summary of the evidence presented.

(5) In their decision on an objection, the development contributions commissioners must not direct the amendment of a development contributions policy, but may make observations on the policy.

10 Service of development contribution objection decision

(1) Written copies of the development contributions commissioners' decision under clause 9 must be served on—
(a) the objector; and
(b) the territorial authority that required the development contribution; and
(c) the Secretary.

(2) Service of the decision must be given within 15 working days after—
(a) the end of the hearing; or
(b) if no hearing is held, the last day of the commissioners' consideration of the evidence.

Part 2
Provisions supplementing section 199I

11 Development contributions commissioners' powers

(1) The commissioners conducting a hearing on an objection have the same powers that a District Court, in the exercise of its civil jurisdiction, has to conduct and maintain order.

(2) Sections 29 to 31 of the Inquiries Act 2013 apply to the hearing of an objection as if the hearing was an inquiry within the meaning of section 4 of that Act.

Schedule 13A—*continued*
Part 2—*continued*

12 Power to summon witness

(1) A written summons may be issued requiring any person to attend at the time and place specified in the summons and to give evidence, and to produce any papers, documents, records, or things in that person's possession or under that person's control that are relevant to the subject of the hearing.

(2) A summons may be issued by a development contributions commissioner on his or her own initiative or on application.

(3) The commissioner who issues the summons must be—
- (a) the chairperson; or
- (b) any commissioner authorised by the chairperson; or
- (c) if there is no chairperson, any commissioner participating in the hearing or consideration of the objection.

(4) A commissioner who may issue a summons may do any other act preliminary or incidental to the hearing or consideration of the objection.

13 Service of summons

(1) A summons to a witness may be served—
- (a) by delivering it to the person summoned; or
- (b) by posting it by registered letter addressed to the person summoned at that person's usual place of abode.

(2) The summons must,—
- (a) if served under subclause (1)(a), be served at least 24 hours before the attendance of the witness is required:
- (b) if served under subclause (1)(b), be served at least 10 days before the date on which the attendance of the witness is required.

(3) If the summons is posted by registered letter, it must be treated for the purposes of subclause (2)(b) to have been served at the time when the letter would be delivered in the ordinary course of post.

Schedule 13A—*continued*
Part 2—*continued*

14 Service of notices

(1) Where a notice or other document is to be served on a person for the purpose of section 199I or this schedule, it may be given—

(a) by delivering it personally to the person; or

(b) by delivering it at the usual or last known place of residence or business of that person, including by fax or by electronic mail; or

(c) by sending it by prepaid post addressed to the person at the usual or last known place of residence or business of the person.

(2) Where a notice or document is to be served on a corporation for the purposes of section 199I or this schedule, service on an officer of the corporation, or on the registered office of the corporation, in accordance with subclause (1) is deemed to be service on the corporation.

(3) Where a notice or document is to be served on a partnership for the purposes of section 199I or this schedule, service on any one of the partners in accordance with subclause (1) or (2) is deemed to be service on the partnership.

(4) Where a notice or document is sent by post to a person in accordance with subclause (1)(c), the notice or document is deemed, in the absence of proof to the contrary, to have been given on the third day after the day on which it was posted.

15 Evidence

The development contributions commissioners may, for the purposes of a hearing,—

(a) receive any evidence that, in their opinion, may assist them to deal effectively with the development contribution objection, whether or not the evidence would be admissible in a court of law; and

(b) take evidence on oath or affirmation, and for that purpose an oath or affirmation may be administered by any commissioner; and

Schedule 13A—*continued*
Part 2—*continued*

(c) permit a witness to give evidence by any means, including by written or electronic means, and require the witness to verify the evidence by oath or affirmation.

16 Other immunities and privileges of participants

(1) Witnesses and other persons participating in a hearing (other than counsel) have the same immunities and privileges as if they were appearing in civil proceedings and the provisions of subpart 8 of Part 2 of the Evidence Act 2006 apply to the inquiry, to the extent that they are relevant, as if—

(a) the hearing were a civil proceeding; and

(b) every reference to a Judge were a reference to a commissioner.

(2) Counsel appearing at a hearing have the same immunities and privileges as they would have if appearing before a court.

Schedule 8

s 75

Consequential amendments to principal Act

Section 87

In section 87(1)(a), replace "none of sections 84 to 86 apply" with "neither section 86 nor 93A applies".

Section 97

In section 97(2)(b), replace "statement of proposal prepared under section 84" with "consultation document in accordance with section 93E".

Section 103

In section 103(4), replace "sections 84(4) and 94(1)" with "sections 93D(4) and 94".

Section 259C

In section 259C(2), replace "section 84(4), 94(1), or 99(1)" with "section 94(1) or 99(1)".

Schedule 9

s 76

Amendments to Local Electoral Act 2001

Section 5

In section 5(1), definition of **election**, before "community board,", insert "local board,".

In section 5(1), definition of **local authority**, before "community board", insert "local board or a".

In section 5(1), insert in their appropriate alphabetical order:

"**local board** has the same meaning as in section 5(1) of the Local Government Act 2002

"**local board area** has the same meaning as in section 5(1) of the Local Government Act 2002".

In section 5(1), definition of **subdivision**, after "region,", insert "a subdivision of a local board area or community,".

Section 7

After section 7(c), insert:

"(ca) every election of 1 or more members of a local board; and".

Section 10

In section 10(2), before "or community board", insert ", local board,".

Section 11

In section 11, before "or community board", insert ", local board," in each place.

Section 14

In section 14(1) and (4)(b), before "or community board", insert ", local board,".

Section 16

In the heading to section 16, before "**and community boards**", insert "**, local boards,**".

In section 16, replace "territorial authority and its community boards" with "territorial authority and its local boards and com-

Section 16—*continued*

munity boards" and replace "or those community boards" with "or those local boards or community boards".

Part 1A heading

In the Part 1A heading, before "**and community boards**", insert "**local boards,**".

New sections 19EA to 19EC

After section 19E, insert:

"**19EA Membership of local boards**

"(1) Every local board—

"(a) must consist of not fewer than 5 members nor more than 12 members, including the chairperson; and

"(b) must include at least 5 elected members; and

"(c) may, if an Order in Council under section 25 of the Local Government Act 2002 so provides, include 1 or more appointed members.

"(2) The maximum number of members appointed under subsection (1)(c) must be less than half the total number of members.

"(3) The persons who are appointed under subsection (1)(c) as members of the local board must—

"(a) be members of, and must be appointed by, the governing body for the district in which the local board area is situated; and

"(b) be members of the governing body representing a ward that is wholly or predominantly within the local board area.

"**19EB Basis of election of chairperson of local board in certain circumstances**

"(1) This section applies if an Order in Council under section 25 of the Local Government Act 2002 provides that the chairperson of a local board is to be directly elected to that office.

"(2) If this section applies, the chairperson of the local board is to be elected by the electors of the local board area as a whole.

New sections 19EA to 19EC—*continued*

"(3) An election under subsection (2) is to be held at the same time as the general election of the other members of the local board.

"**19EC Basis of election of members of local board**

"(1) A local board area may be subdivided for electoral purposes.

"(2) Each subdivision must elect at least 1 member of the local board.

"(3) If a local board area comprises 2 or more whole wards, the elected members of the local board may be elected by the electors of each ward.

"(4) If the local board area is not subdivided for electoral purposes, the members of the local board must, unless they are to be elected in accordance with subsection (3), be elected by the electors of the local board area as a whole.

"(5) If a local board area is subdivided for electoral purposes or if the members of the local board are to be elected in accordance with subsection (3),—

"(a) each member of the local board who represents a subdivision must be elected by the electors of that subdivision; and

"(b) each member of the local board who represents a ward must be elected by the electors of that ward."

Section 19H

In section 19H(1)(d)(ii), after "each ward", insert "; and".

After section 19H(1)(d), insert:

"(e) the proposed number of elected members of any local board and, if an Order in Council under section 25 of the Local Government Act 2002 so provides, the proposed number of appointed members of that board; and

"(f) whether the elected members of any local board are proposed to be elected—

"(i) by the electors of the local board area as a whole; or

"(ii) by the electors of 2 or more subdivisions of the local board area; or

Section 19H—*continued*

"(iii) if the local board area comprises 2 or more wards, by the electors of each ward; and

"(g) in any case to which paragraph (f)(ii) applies,—

"(i) the proposed name and the proposed boundaries of each subdivision; and

"(ii) the number of members proposed to be elected by the electors of each subdivision; and

"(h) in any case to which paragraph (f)(iii) applies, the number of members of the local board proposed to be elected by the electors of each ward; and

"(i) the proposed name of any local board."

Section 19JA

In section 19JA(1) and (2)(a), after "subdivisions of", insert "local board areas or".

In section 19JA(4), before "or community", insert "or local board area".

Section 19K

In section 19K(1AA) and (2), before "or community board", insert "local board,".

In section 19K(3), before "section 19I(1)", insert "section 19H(1)(g) or".

Section 19O

In section 19O(1), before "community board", insert "local board or".

Section 19P

In section 19P(1), before "community board", insert "local board or".

Section 19Q

In section 19Q(e), before "or community", insert "or local board area".

Section 19T

In the heading to section 19T, after "**territorial authorities**", insert "**and local boards**".

In section 19T(c), before "community boundaries", insert "any local board area or".

In section 19T, insert as subsection (2):

"(2) In determining the matters specified in section 19H(1)(e) to (h), the territorial authority and, where appropriate, the Commission must ensure—

"(a) that the election of members of the local board, in one of the ways specified in section 19H(1)(f)(i) to (iii), will provide effective representation of communities of interest within the local board area; and

"(b) that the boundaries of subdivisions coincide with the boundaries of the current statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes; and

"(c) that, so far as is practicable, subdivision boundaries coincide with ward boundaries."

Section 19V

In section 19V(1) and (2), before "or community", insert "or local board area" in each place.

In section 19V(3)(a), before "community may", insert "local board area or a".

Section 19X

In section 19X(1), after "district,", insert "local board area,".

Section 19Y

In section 19Y(1) and (3), before "or community board", insert "or local board".

Section 21

In section 21(b), before "community", insert "local board area," in each place.

Section 24

In section 24, before "or a community", insert "a local board area," and replace "region, district, or community" with "region, district, local board area, or community" in each place.

Section 24B

In section 24B(1)(a)(iv), before "community board", insert "local board or".

Section 27

In section 27, before "community boards", insert "local boards or" in each place.

Section 28

In section 28(1), before "community boards", insert "local boards or".

Section 29

In section 29(1), before "community boards", insert "local boards or".

Section 31

In section 31(1), before "community boards", insert "local boards or".

Section 33

In section 33(4) and (5), before "community boards", insert "local boards or".

Section 40

In the heading to section 40, before "**community board**", insert "**local board or**".

Section 41

In section 41(1) and (2), before "or community", insert "local board area,".

Section 57A

In section 57A, before "community", insert "local board area or".

Section 58

In section 58(1), definition of **constituent authority**, after paragraph (a), insert:

"(aa) a local board for a local board area that is wholly or partly within the region; or".

New section 58AA

After section 58, insert:

"**58AA Prohibition on candidacy for local board**

"(1) No member of the governing body of a unitary authority may be a candidate for election as a member of a local board for a local board area within the district of the unitary authority.

"(2) Subsection (1) does not apply if a general election of members of the governing body of the unitary authority is to be held at the same time as a general election of members of the local board."

Section 68

In section 68(3)(b), before "community board", insert "local board or".

Section 73A

In section 73A(1) and (7)(a), before "and community boards", insert ", local boards,".

Section 84

In section 84(5A) and (5B), before "community boards", insert "local boards or".

In section 84(5C) and (5D), before "community board", insert "local board or".

Section 88A

In the heading to section 88A, before "**community board**", insert "**local board or**".

Section 88A—*continued*

In section 88A(1), before "community board", insert "local board or" in each place.

In section 88A(2), replace "community board" with "local board or community board, as the case may be".

Section 88B

In section 88B(a), before "community board", insert "local board or".

In section 88B(b), before "part of the district", insert "local board area or" and replace "community board" with "local board or community board, as the case may be".

In section 88B(c), before "community board", insert "local board or".

Section 88C

In section 88C(a)(i), before "community board", insert "local board or".

In section 88C(b), before "part of the district", insert "local board area or".

In section 88C(b)(i), replace "community board" with "local board or community board, as the case may be".

In section 88C(c), before "community board", insert "local board or".

Section 88D

In section 88D, before "community board", insert "local board or".

Section 88E

In section 88E, before "community board", insert "local board or" in each place.

Section 88F

In the heading to section 88F, before "**community board**", insert "**local board or**".

In section 88F, before "community board", insert "local board or" in each place.

Section 104

In section 104, definition of **electoral activity**, paragraph (b)(i), before "community board", insert "local board or".

Section 116

In section 116(1), before "community board", insert "local board or".

Section 117

In the heading to section 117, before "**community board**", insert "**local board or**".

In section 117, before "community board", insert "local board or" in each place.

Section 117A

In the heading to section 117A, before "**community board**", insert "**local board or**".

In section 117A, before "community board", insert "local board or" in each place.

Section 118

In section 118, before "community board", insert "local board or" in each place.

Section 119

In section 119, before "community board", insert "local board or".

Section 120

In section 120(2), before "community board", insert "local board or".

Section 142

In section 142(a), before "communities", insert "local board areas or".

Schedule 10
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Amendments to Local Government (Auckland Council) Act 2009

Section 11

In section 11(1A)(a), delete "and section 103 of this Act".

In section 11(1A)(b), delete "and section 13A of this Act".

Repeal section 11(3) to (6).

Section 12

Replace section 12(3) with:

"(3) A local board does not have separate legal standing from the Auckland Council and therefore, without limitation, may not—

"(a) acquire, hold, or dispose of property; or

"(b) enter into contracts; or

"(c) appoint, suspend, or remove employees; or

"(d) commence, or be a party to, or be heard in legal proceedings."

After section 12(3), insert:

"(4) Nothing in this section limits the responsibility of a local board to make the decisions of the Auckland Council that are allocated to it in accordance with section 16."

Section 13A

Repeal section 13A.

Section 14

In section 14(2), replace "Unlike other local authorities, both" with "Both".

Section 15

Replace section 15(1)(b) with:

"(b) the decision making of the Auckland Council in relation to—

"(i) transport networks and infrastructure; and

Section 15—*continued*

"(ii) any non-regulatory activities of the Auckland Council that are allocated to the governing body in accordance with section 17; and".

Section 18

Repeal section 18.

Section 19

Replace section 19(6) with:

"(6) For the purposes of adopting a funding policy under subsection (1), section 102 of the Local Government Act 2002 applies with any necessary modifications."

In section 19(6A), replace "sections 84(4) and 94" with "sections 93D(4) and 94(1)".

Section 19A

Repeal section 19A.

Section 21

In section 21(2)(b), replace "section 31" with "clause 36C of Schedule 7 of the Local Government Act 2002".

In section 21(5)(a)(ii), replace "paragraph (a)" with "subparagraph (i)".

Section 22

Replace section 22(1) to (3) with:

"(1) For the purposes of consulting on each local board agreement to be included in the LTP, the consultation document adopted under section 93A(1)(a) of the Local Government Act 2002 must include content relating to each agreement.

"(2) For the purposes of consulting on each local board agreement to be included in an annual plan, the consultation document adopted under section 82A(3) of the Local Government Act 2002 must include content relating to each agreement."

Section 23

Repeal section 23(2) and (3).

Sections 24 to 28 and cross-heading above section 24

Repeal sections 24 to 28 and the cross-heading above section 24.

Section 29

Replace section 29(1) and (2) with:

"(1) Part 1A of Schedule 7 of the Local Government Act 2002 applies to a local board and its members.

"(2) Part 1 of Schedule 7 (excluding clauses 15 and 32AA to 36A) of the Local Government Act 2002 applies to a local board and its members, with any necessary modifications, as if the local board were a local authority and its members were members of the local authority."

Sections 30 to 32B

Repeal sections 30 to 32B.

Section 103

Repeal section 103(2) and (3).

Schedule 11

s 78

Consequential amendments to other enactments

Building Act 2004 (2004 No 72)

After section 99, insert:

"**99AA Withholding certificate of acceptance**

If a territorial authority grants an application for a certificate of acceptance but withholds the certificate under section 208 of the Local Government Act 2002, the territorial authority must give the applicant written notice of—

"(a) the grant of the application; and

"(b) the withholding of the certificate; and

"(c) the development contribution required to be paid or made before the certificate will be issued."

Local Authorities (Members' Interests) Act 1968 (1968 No 147)

In Schedule 1, Part 1, insert in its appropriate alphabetical order:

Local boards	Local Government Act 2002 (2002 No 84) and Local Government (Auckland Council) Act 2009 (2009 No 32)

Local Government Official Information and Meetings Act 1987 (1987 No 174)

In Schedule 1, Part 1, insert in its appropriate alphabetical order:

"Local boards within the meaning of the Local Government Act 2002".

Ombudsmen Act 1975 (1975 No 9)

In Schedule 1, Part 3, insert in its appropriate alphabetical order:

"Local boards within the meaning of the Local Government Act 2002".

Resource Management Act 1991 (1991 No 69)

In section 2(1), insert in their appropriate alphabetical order:

"**local board** has the same meaning as in section 5(1) of the Local Government Act 2002

"**unitary authority** has the same meaning as in section 5(1) of the Local Government Act 2002".

In section 33(2)(g), delete "(within the meaning of section 4(1) of the Local Government (Auckland Council) Act 2009".

In section 34(3A), replace "The Auckland Council" with "A unitary authority".

In section 34(3B), replace "the Auckland Council" with "a unitary authority".

After section 42(6)(b)(i), insert:

"(ia) a local board:".

In section 80(11), replace "Clause 30 of Schedule 7 of the Local Government Act 2002 applies" with "Clauses 30 and 30A of Schedule 7 of the Local Government Act 2002 apply".

Legislative history

4 November 2013	Introduction (Bill 165–1)
3 December 2013	First reading and referral to Local Government and Environment Committee
12 May 2014	Report of Local Government and Environment Committee (Bill 165-2)
27 May 2014	Second reading
29 May 2014	Committee of the whole House
29 July 2014	Third reading
7 August 2014	Royal assent

This Act is administered by the Department of Internal Affairs.

Wellington, New Zealand:
Published under the authority of the New Zealand Government—2014