

**NEW ZEALAND
CITIZENSHIP CEREMONY**



**HIS WORSHIP WILL CONFER NEW
ZEALAND CITIZENSHIP ON**

**RICHARD PENDLEBURY
A BRITISH CITIZEN**

AND

**MARTINA BLONDELL
A CZECH CITIZEN**

**on Tuesday 2 August 2016, at 7.30 pm
prior to the Council meeting**



Notice is hereby given that an ordinary meeting of the Gore District Council will be held in the Council Chambers, 29 Bowler Avenue, Gore, on Tuesday 2 August 2016, at 7.30pm

- **REMINDER – Councillor speed dating with the Gore Youth Council – 6.00pm, James Cumming Wing lounge**
- **A private briefing for elected members will commence at 6.45pm**

A handwritten signature in black ink, appearing to read "Stephen Parry".

**Stephen Parry
Chief Executive**

27 July 2016

Agenda

1. Apologies
2. Declaration of Councillor conflict of interests
3. Confirmation of minutes and reports

Confirmation of the minutes of the ordinary meeting of the Gore District Council, held on Tuesday 28 June 2016.

Pages 1-14
4. Urgent late business – as tabled at the meeting, pursuant to section 46 (a)(7) of the Official Information and Meetings Act 1987.
5. Report from Youth Council

Page 15
6. Gore District residents survey 2016

Pages 16-17
7. Submissions to Local Government Act 2002 Amendment Bill (No 2)

Pages 18-106
8. Southland Water and Land Plan - submissions

Pages 107-147

9.	Landlocked land East Gore	Pages 148-150
10.	Variation to Gore Pakeke Lions Club resource consent	Page 151
11.	Draft Trade Waste Bylaw 2016	Pages 152-157
12.	Schedule of landuse consents	Pages 158-161
13.	Report from Rural Halls and Domains Sub-Committee	Pages 162-164
14.	LAP report	Page 165
15.	Report from Councillors	Pages 166-171
16.	Approved urgent late items	
17.	Business to be considered pursuant to the Local Government Official Information and Meetings Act 1987:	
	(i) Confirmation of Minutes	
	• Confirmation of the minutes of the ordinary meeting of the Gore District Council, held in committee, on Tuesday 28 June 2016.	
	(ii) Other Business	
	• Roadside parking and storage issue	
	• Venture Southland – allocation of surplus funding to significant projects	
	• MVM Development Committee – <i>Cr Highsted excluded</i>	

RURAL CITY LIVING



Minutes of an ordinary meeting of the Gore District Council, held in the Council Chambers, 29 Bowler Avenue, Gore, on Tuesday 28 June 2016, at 7.30pm

Present His Worship the Mayor (Mr Tracy Hicks, JP), Crs Beale, Bolger, Byars, Davis, Gover, D Grant, P Grant, Page, Highsted and Sharp.

In Attendance The General Manager District Assets (Mr Paul Withers), Chief Financial Officer (Mr Luke Blackbeard), 3 Waters Asset Manager (Mr Matt Bayliss), HR/Administration Manager (Susan Jones), Planning Consultant (Mr Keith Hovell), Building Control Manager (Mr Russell Paterson) and six members of the public in the gallery.

Apology The Chief Executive apologised for absence.

His Worship called for any conflicts of interest. None were declared.

1. CONFIRMATION OF MINUTES

RESOLVED on the motion of Cr D Grant, seconded by Cr Bolger, **THAT** the minutes of the ordinary meeting of the Gore District Council, held on Tuesday 10 May 2016, as presented, be confirmed and signed by the Mayor as a true and complete record.

RESOLVED on the motion of Cr Highsted, seconded by Cr Gover, **THAT** the minutes of the extraordinary meeting of the Gore District Council, held on Tuesday 31 May 2016, as presented, be confirmed and signed by the Mayor as a true and complete record.

RESOLVED on the motion of Cr Bolger, seconded by Cr P Grant, **THAT** the minutes of the extraordinary meeting of the Gore District Council, held on Tuesday 7 June 2016, as presented, be confirmed and signed by the Mayor as a true and complete record.

RESOLVED on the motion of Cr P Grant, seconded by Cr Byars, **THAT** the report of the ordinary meeting of the Community Services Committee, held on Tuesday 7

June 2016, as presented, be confirmed and signed by the Mayor as a true and complete record.

RESOLVED on the motion of Cr Gover, seconded by Cr Highsted, **THAT** the recommendations contained within the report of the meeting of the Community Services Committee, held on Tuesday 7 June 2016, as presented, be ratified.

RESOLVED on the motion of Cr Beale , seconded by Cr Page, **THAT** the report of the meeting of the Operations Committee, held on Tuesday 7 June 2016, as presented, be confirmed and signed by the Mayor as a true and complete record.

RESOLVED on the motion of Cr Davis, seconded by Cr D Grant, **THAT** the recommendations contained within the report of the meeting of the Operations Committee, held on Tuesday 7 June 2016, as presented, be ratified.

RESOLVED on the motion of Cr Highsted, seconded by Cr Page, **THAT** the report of the meeting of the Regulatory and Planning Committee, held on Tuesday 7 June 2016, as presented, be confirmed and signed by the Mayor as a true and complete record.

RESOLVED on the motion of Cr Highsted, seconded by Cr D Grant, **THAT** the recommendations contained within the report of the meeting of the Regulatory and Planning Committee, held on Tuesday 7 June 2016, as presented, be ratified.

RESOLVED on the motion of Cr Bolger, seconded by Cr Page, **THAT** the report of the meeting of the Finance and Policy Committee, held on Tuesday 7 June 2016, as presented, be confirmed and signed by the Mayor as a true and complete record.

RESOLVED on the motion of Cr Bolger, seconded by Cr Davis, **THAT** with the exception of rural dog registration fees for 2016-17, the recommendations contained within the report, of the meeting of the Finance and Policy Committee, held on Tuesday 7 June 2016, as presented, be ratified.

Clause 2 – Proposed Fees and Charges for 2016/17 (SC1467)

Cr Sharp referred to the proposed increase in dog registration fees.

His Worship said there had been some comments received about the proposed increase. A letter from Federated Farmers requesting the Council not to approve the increase had been circulated prior to the meeting.

Cr Sharp felt increasing the cost from \$17 to \$25 per dog was too high. He suggested that the fee be \$20 per dog, not \$25.

Cr Byars would like the Council to reconsider the decision. She suggested running a public information campaign to enable rural dog owners to have their dog

registration in order. She thought a flyer could be included with registration information.

Cr Bolger said it was a good suggestion but it also would have a cost associated with it. He reminded the Council of requests from submitters such as Federated Farmers who asked for a user pays system, but now it did not want an increase to be made. The cost of the service had to be met by the users of it. He asked Cr Sharp where the activity deficit would come from.

His Worship said the cost of the dog control activity was contained within it.

Cr Bolger said if the Council accepted Cr Sharp's suggestion, where would the \$5 per dog deficit be made up from.

The Chief Financial Officer said the cost centred around the administration side of the activity. After analysing the time it took to process the various transactions for rural dogs when compared to urban dogs, the proposal to increase the fee reflected the time spent. It was about the administration. If the quality of the information coming to the Council was cleaner, the issue could largely disappear.

Cr Beale said he had a retired farmer voice his concerns about the cost increasing by nearly 50%. However, having the ability to register dogs online would be progress.

Cr Davis asked how long it had been since the registration fee had increased.

Cr Bolger said it had remained at \$17 for several years.

His Worship said the Gore District was one of the cheaper Councils for rural dog registrations. If it was about cost recovery, was the fee going to generate more than was required?

The Chief Financial Officer said the fees would be expected to cover the costs of the activity.

His Worship felt the Council needed to put more effort into ensuring the registration process was available online. He felt the extra work associated with rural dogs could be alleviated by having a better online presence.

In response to Cr Bolger who asked what would happen if the account had a deficit at the end of the financial year as a result of increasing the rural dog registration fee to \$20 as opposed to \$25, the Chief Financial Officer said the matter would have to be referred back to the Council.

His Worship said the Council was operating on cost recovery. He asked if there was a public good in the animal control activity and should the rest of the community have to contribute to it.

Cr Sharp asked if a \$3 increase was agreed to, what would the shortfall in the activity be.

The Chief Financial Officer said it would be \$5 per dog.

Cr Byars moved THAT the rural dog registration fee be set at \$20 for the 2016-17 year, review it and undertake public information about it and have better records with rural owners and investigate an improved online presence for dog registrations.

The motion was seconded by Cr Sharp.

Cr Davis referred to a previous Dog Control Working Party and a desire to have a dog park that was proposed to be funded partly by other ratepayers however it was not supported by the Council. She could not support the amendment and was concerned the account would end up in deficit.

The motion was put and it was lost.

The meeting AGREED THAT the proposed fee for rural dog registration contained in the proposed fees and charges document for 2016-17, being \$25 would therefore be upheld.

2. URGENT LATE BUSINESS

RESOLVED on the motion of Cr Byars, second Cr D Grant, THAT pursuant to Section 46(a)(7) of the Local Government Official Information and Meetings Act 1987, the Gore District Council HEREBY RESOLVES to address the following item, in committee, which requires urgent attention.

Subject

Consideration of a letter from KiwiRail

Reason for not being on agenda

Issue was brought to the Council's attention after the agenda had been published.

Reason for Urgency

To ensure that the issues raised can be responded to in a timely manner.

2016/66

3. YOUTH COUNCIL

Olivia Samson, Chair of the Youth Council and Hamish Goatley were in attendance and provided an update on Youth Council activities, including events held as a result of the funding received from the Ministry of Youth Development. A workshop would

be held in July to commence planning for the 2016 Youth Awards. An invitation was issued for “speed dating” between the Council and Youth Councillors to be held on 2 August from 6.00pm.

The Youth Councillors departed at 8.04pm

4. SOUTHLAND REGIONAL DEVELOPMENT STRATEGY UPDATE (SC1312)

Sarah Brown, Project Manager and Sarah Hannan, Programme Director of the Southland Regional Development Strategy (SoRDS), were in attendance at gave an overview and general update on SoRDS progress.

An outline of each of the nine action teams was provided. Reports from each team were expected to be presented to the Governance group by the end of July-early August.

Mrs Brown and Mrs Hannan departed the meeting at 8.35pm

5. VENTURE SOUTHLAND PROJECTS AND ACTIVITIES REPORT APRIL AND MAY 2016

A report from Venture Southland on its projects and activities for April and May 2016 had been circulated.

The Chief Executive, Mr Paul Casson, was in attendance to speak to the report.

RESOLVED on the motion of Cr Bolger, seconded by Cr D Grant, THAT the report be received.

2016/67

6. REVIEW OF DISTRICT PLAN (SC0464)

A memo had been received from the Planning Consultant advising the section 79 of the Resource Management Act (RMA) required local authorities to keep plans and policy statements up to date. Every provision had to be reviewed at least once every 10 years. The Gore District Plan became operative on 31 July 2006 and in 2011, the provisions were assessed as to their adequacy and regard given to issues that had arisen over the intervening period. The outcome of that process was the notification of a number of plan changes. The Plan was still very much “fit for purpose” but some minor changes were required for clarification. The Government had proposed a number of changes to the RMA and if implemented, would impact on the content and format of district plans.

The Consultant advised it would be unwise to proceed with a review of the District Plan until the proposed changes to the RMA were enacted and the provisions of the Regional Policy Statement finalised given the potential impact these would have on the form and content of any reviewed district plan.

RESOLVED on the motion of Cr Davis, seconded by Cr Page, THAT the Council endorse delaying the review of the district plan at this time,

AND THAT the matter be subject to a further report to the Council in the first quarter of 2017.

2016/68

7. GORE DISTRICT SUBDIVISION AND DEVELOPMENT BYLAW 2011 (SC0107)

A joint memo had been received from the Policy and Planning Officer and Planning Consultant advising that the Subdivision and Development Bylaw had been adopted on 2 November 2011 and came into force on 1 January 2012. It was originally introduced to overcome problems being experienced in processing subdivision consent, administering the provisions of the district plan and providing certainty for those undertaking development.

The bylaw was still considered to be the most appropriate way of addressing the perceived problem and some minor amendments were appropriate to the design standards in it recognising technology changes over time. Consideration was also required as to the range of matters included in the bylaw from the district plan.

RESOLVED on the motion of Cr Byars, seconded by Cr Gover, THAT the Council determine that the Subdivision and Development Bylaw is the most appropriate way of addressing the perceived problem,

AND THAT a review be undertaken of the Subdivision and Development Bylaw 2011.

2016/69

8. DELEGATIONS UNDER THE RESOURCE MANAGEMENT ACT 1991 (SC0112)

A memo had been received from the Planning Consultant advising that subsequent to the Committee Structure and Delegations Register being approved at the 10 May meeting, several errors and omissions had been noted. A schedule setting out the full additions required to the register had been circulated with the agenda.

RESOLVED on the motion of Cr Highsted, seconded by Cr Page, THAT the Council approve the additional delegations as circulated for inclusion in the revised Committee Structure and Delegations register approved on 10 May 2016, with immediate effect.

2016/70

9. ADOPTION OF 2017-17 ANNUAL PLAN (SC1446)

A memo had been received from the Chief Financial Officer together with a copy of the draft 2016-17 annual plan. As intimated in the Long Term Plan, the Council would not balance its budget in the 2017 year due to the mix of rates and debt funding for the planned capital work. It was an accounting deficit, not a cash deficit.

The unbalanced budget in 2017 was considered to be financially prudent given that:

- It would not affect the Council's ability to achieve the predicted levels of service, service capacity or the integrity of the assets.
- The Council would have sufficient income to meet its cash expenses.
- To balance the budget an extra 2.18% increase on rates would be required in the 2017 year which would be a breach of the self-imposed rating cap of 5% and given the two previous points and would be an unnecessary increase in cost to the ratepayer.
- The Council maintained a very strong financial position, for example, the Council's forecast term debt was never more than six percent of its total assets and it was in a good position to borrow further funds to meet an emergency situation.
- There was nothing in any of the Council's financial policies that precluded it from adopting an unbalanced budget.

RESOLVED on the motion of Cr Bolger, seconded by Cr Byars, THAT the unbalanced budgets in the draft 2016-17 Annual Plan are considered to be prudent in the circumstances of the Council's current financial situation,

THAT the draft 2016-17 Annual Plan be adopted,

AND THAT the Chief Executive be authorised to make any layout and formatting changes required prior to publishing the 2016-17 Annual Plan.

2016/71

Mr Casson departed the meeting at 8.57pm

10. RATES RESOLUTION (SC1203)

A memo had been received from the Chief Financial Officer recommending the Council set the following rates under the Local Government (Rating) Act 2002.

Cr P Grant questioned whether the Waimumu hall was supposed to be included in the schedule for rating purposes.

The Chief Financial Officer recalled it being discussed, but no decision had been made.

His Worship added the Council had approached Hall Committee but no decision had been forthcoming.

RESOLVED on the motion of Cr Bolger, seconded by Cr Davis,

1. **THAT** under the Local Government (Rating) Act 2002, the Council set the following rates on rating units in the district for the financial year commencing 1 July 2016 and ending on 30 June 2017:

a. Uniform Annual General Charge

A uniform annual general charge set under section 15 of the Local Government (Rating) Act 2002 for all rateable land in the district of \$650 (GST inclusive) per separately used or inhabited part of a rating unit.

b. General rate

A general rate set under section 13 of the Local Government (Rating) Act 2002 for all rateable land in the district of an amount of \$0.000395 (GST inclusive) in the dollar of capital value of the land.

c. Southland Regional Heritage Trust rate

A targeted rate set under section 16 of the Local Government (Rating) Act 2002 in relation to all rateable land in the district, to fund the Council's contribution to the Southland Regional Heritage Trust, of an amount of \$34.82 (GST inclusive) per separately used or inhabited part of a rating unit.

d. Targeted rate for various specified activities

A targeted rate set under section 16 of the Local Government (Rating) Act 2002 to fund the following activities: roading; civil defence; aquatic facilities; district libraries; property; rural fire, MLT Event Centre and public toilets. The rate is set based on the capital value of the land and at different rates in the dollar for different categories of land as follows:

Categories of rateable land	Per \$ of capital value (GST inclusive)
Gore, Residential	0.001680
Gore, Commercial	0.004114
Mataura, Residential	0.000546
Mataura, Commercial	0.002724
Rural	0.000923
Heavy Industry 1	0.058415
Heavy Industry 2	0.011461
Heavy industry 3	0.010777

e. Parks & Reserves Residential rate

A targeted rate set under section 16 of the Local Government (Rating) Act 2002 for parks and reserves on all rateable land defined as residential, and at different amounts for different categories of such land as follows:

Categories of rateable land	Factor(s) for calculating liability	Rate (GST inclusive)
Gore, Residential	Per separately used or inhabited part of a rating unit	\$302.23
Mataura, Residential	Per separately used or inhabited part of a rating unit	\$236.50

f. Parks & Reserves Rural rate

A targeted rate set under section 16 of the Local Government (Rating) Act 2002 for parks and reserves on all rateable land defined as rural, and at different fixed amounts for different categories of such land, as follows:

Categories of rateable land	Factor(s) for calculating liability	Rate (GST inclusive)
Rural, capital value \$0 - \$132,000	Per separately used or inhabited part of a rating unit	\$201.02
Rural, capital value 132,001 and above	Per separately used or inhabited part of a rating unit	\$346.25

g. Parks & Reserves Commercial rate

A targeted rate set under section 16 of the Local Government (Rating) Act 2002 for parks and reserves on all rateable land defined as commercial, and at different amounts or rates in the dollar for different categories of such land, as follows:

Categories of rateable land	Factor(s) for calculating liability	Rate (GST inclusive)
Commercial, capital value \$0 – 87,000	Per rating unit	\$450.00
Commercial, capital value \$87,001 - \$870,000	Capital value	\$0.005053

Commercial, capital value \$870,001 and above	Per rating unit	\$4,450.00
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h. Water rate

A targeted rate set under section 16 of the Local Government (Rating) Act 2002 for water supply, at different amounts for different categories of land as follows:

Categories of rateable land	Factor(s) for calculating liability	Rate (GST inclusive)
Gore or Maitara water scheme – connected	Per separately used or inhabited part of a rating unit	\$320
Gore or Maitara water scheme – serviceable	Per separately used or inhabited part of a rating unit	\$160

i. Additional water rate

A targeted rate set under section 16 of the Local Government (Rating) Act 2002 for water supply, on all non-residential land which is connected to the Gore or Maitara water schemes, of an amount of \$320 (GST inclusive) per connection after the first connection.

j. Wastewater and stormwater rate

A targeted rate set under section 16 of the Local Government (Rating) Act 2002 for wastewater and stormwater at different amounts for different categories of land, as follows:

Categories of rateable land	Factor(s) for calculating liability	Rate (GST inclusive)
Gore or Maitara scheme, connected	Per separately used or inhabited part of a rating unit	\$332.94
Gore or Maitara scheme, serviceable	Per separately used or inhabited part of a rating unit	\$166.47
Waikaka scheme, connected	Per separately used or inhabited part of a rating unit	\$101.94
Waikaka scheme, serviceable	Per separately used or inhabited part of a rating unit	\$50.97

Pukerau scheme, connected	Per separately used or inhabited part of a rating unit	\$76.46
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Additional wastewater and stormwater rate

A targeted rate set under section 16 of the Local Government (Rating) Act 2002 for wastewater and stormwater on all non-residential land connected to the Gore, Maitara or Waikaka Wastewater and Stormwater Schemes, at different amounts for different categories of land, as follows:

Categories of rateable land	Factor(s) for calculating liability	Rate (GST inclusive)
Connected to Gore or Maitara Scheme, short term accommodation	per water closet or urinal after the first	\$166.47
Connected to Gore or Maitara Scheme, educational institutions	per water closets or urinals after the first. The number of water closets or urinals will be assessed on the basis of 6.25% of the total number of staff and pupils at each establishment.	\$332.94
Connected to Gore or Maitara Scheme, all other non-residential rating units (excluding educational institutions).	per water closet or urinal after the first.	\$332.94
Connected to Waikaka Scheme, all non-residential (excluding educational institutions).	per water closet or urinal after the first.	\$101.94

k. Otama water unit allocation rate

A targeted rate set under section 16 of the Local Government (Rating) Act 2002 for the Otama water scheme on all land connected to the scheme, of an amount of \$200 (GST inclusive) per water unit allocation ie on the extent of the provision of the service.

l. Otama water connection rate

A targeted rate set under section 16 of the Local Government (Rating) Act 2002 for the Otama water scheme on all land connected to the scheme, of an amount of \$215 (GST inclusive) per water connection.

m. Solid waste rate

A targeted rate set under section 16 of the Local Government (Rating) Act 2002 for solid waste at different amounts for different categories of land as follows:

Categories of rateable land	Factor(s) for calculating liability	Rate (GST inclusive)
Gore and Maitava, vacant land (unserved)	Per separately used or inhabited part of a rating unit	\$70.66
Gore and Maitava, small wheelie bin service (80 ltr)	Per separately used or inhabited part of a rating unit	\$243.13
Gore and Maitava, (standard wheelie bin service (240 ltr)	Per separately used or inhabited part of a rating unit	\$291.90

n. Community hall rate

A targeted rate set under section 16 of the Local Government (Rating) Act 2002 for rural halls as follows:

Categories of rateable land	Factor(s) for calculating liability	Rate (GST inclusive)
Brydone hall area	Per separately used or inhabited part of a rating unit	\$24.22
Mandeville hall area	Per separately used or inhabited part of a rating unit	\$46.00
Otama hall area	Per rating unit	\$80.50
Pukerau hall area	Per separately used or inhabited part of a rating unit	\$34.00
Tuturau hall area	Per separately used or inhabited part of a rating unit	\$34.86
Waikaka hall area	Per separately used or inhabited part of a rating unit	\$46.00

Knapdale hall area	Per separately used or inhabited part of a rating unit	\$57.50
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2. **THAT** all rates will be payable in four instalments with the due dates for payment being:

Instalment No	Period covered	Due date for payment
1	1 July to 30 September	26 August 2016
2	1 October to 31 December	25 November 2016
3	1 January to 31 March	24 February 2017
4	1 April to 30 June	26 May 2017

3. Penalties

THAT a 10% penalty will be added to each instalment, or any portion of the instalment, of rates assessed in the 2016/2017 rating year that remain unpaid on the day after the due date for payment of that instalment.

THAT additional 10% penalties will be added to any rates assessed in previous financial years that remain unpaid on 8 July 2016; and then again on 8 January 2017.

Only payments actually received at the Council offices named below will be accepted as paid on that date.

4. Method of Payment

Rates can be paid at the main Council office in Civic Avenue, Gore or at the Maitara Service Centre in Bridge Street Maitara.

Payments may be made in cash or by cheque or EFTPOS. Credit card payments may be made online via the Council's e-services website. A 2.88% surcharge will be added to any credit card payment.

Electronic payments by direct debit or online banking can be arranged by contacting a customer services representative on 209-0330.

2016/72

11. REPORT OF THE MATARA COMMUNITY BOARD

A copy of the report of the meeting of the Maitara Community Board held on 20 June 2016 had been circulated with the agenda.

RESOLVED on the motion of Cr Gover, seconded by Cr Sharp, **THAT** the report be received,

AND THAT the recommendations contained within the report be ratified.

2016/73

12. REPORTS FROM COUNCILLORS

The Council perused reports from Crs Gover, D Grant, Davis and Page.

The meeting concluded at 9.11pm

COUNCIL MEETING AGENDA

TUESDAY 2 AUGUST 2016

5. YOUTH COUNCIL

Representatives of the Gore District Youth Council will provide the Council with an update on Youth Council activities.

6. GORE DISTRICT RESIDENTS SURVEY – 2016

(Memo from Chief Executive – 21.07.16)

The annual survey of Gore District residents to seek views on the quality of services provided by the Council has now been completed. This year a new service provider in the form of research first has conducted the survey which resulted in a total number of respondents of 521. Of this total 126 completed the survey online on a voluntary basis. As reported in page eight of the survey results, online participation does have the potential to skew results due to a possible concentration of younger people or those that may have an extreme view disproportionate to what may exist in the general population.

That stated, the results are broadly consistent with what has been experienced in previous years. Once again the key priorities identified by residents for the Council to concentrate on over the next twelve months are water issues, roading and footpaths. This is very much in line with the Council's thinking given that it is embarking on a record level of capital works aimed at improving water quality and increasing the effectiveness and capacity of the Council's wastewater and stormwater systems.

In the area of local gravel roads, the Council has in the past year conducted a trial on different types of gravel and as a consequence is now in the process of introducing a better performing gravel for use on our roads. In addition, the Council will be both critically reviewing the specification used as the basis for renewal of the next network maintenance contract as well as taking advantage of exploring collaboration opportunities with our neighbours to ascertain whether a more effective means by which to deliver this service can be secured.

Looking at the areas within the Council activities that generated the highest rates of dissatisfaction, the table below provides a comparison with the results recorded for 2015:

	2015	2016
Activity	Very Dissatisfied or Dissatisfied	Very Dissatisfied or Dissatisfied
Local Gravel Roads	36%	31%
Footpaths	21%	30%
Water Quality	15%	22%
Water Reliability	8%	20%
Stormwater	16%	23%
Wastewater	6%	11%

Liz Morley a Senior Researcher at Research First will be present at the Council meeting to provide a presentation on the findings of the survey.

RECOMMENDATION

THAT the annual resident survey for 2016 be received.

7. SUBMISSIONS TO LOCAL GOVERNMENT ACT 2002 AMENDMENT BILL (No 2)

(Memo from Chief Executive 18.07.16)

The Local Government Act 2002 Amendment Bill (No 2) was introduced to the House on 9 June and received its first reading six days later on 15 June. The Bill has been referred to the Local Government and Environment Select Committee with submissions due on 28 July. The timetable for the passage of the Bill sees the Select Committee being given a deadline of 28 October to report back to Parliament, following the consideration of submissions received.

The Explanatory Note accompanying the Bill states that its aim is to implement a set of reforms to enable improved service delivery and infrastructure provision arrangements at the local government level. In essence, the Bill increases the powers of both the Minister and Local Government Commission to influence and if necessary, override the wishes of a democratically elected Council.

It is therefore not surprising that the Bill is the subject of strong concern within the local government sector. By way of illustration, one of the more draconian measures promoted is the ability of the Local Government Commission to direct the establishment of a Council-controlled organisation (CCO) in any activity of a Council, without seeking the input of the Council itself, or the community it serves. This provision, along with the Minister being able to direct the Local Government Commission, and the Commission being able to instigate a reorganisation proposal whenever and wherever it sees fit, appear more aligned with what would be found in a Totalitarian State than an enduring modern democracy such as New Zealand.

- ✎ Draft submissions from both Local Government New Zealand and the New Zealand Society of Local Government Managers (SOLGM) have been prepared, which forcefully state the sector's opposition and disquiet on some of the more far-reaching provisions promoted in the Bill. These submissions, copies of which are attached, were perused and endorsed by His Worship and I in the lead up to the submission deadline of 28 July.

In anticipation of receiving Council endorsement, formal letters in support of the submissions have been sent to LGNZ and SOLGM, respectively. At the time of writing, it was anticipated that the content of the Bill would be the subject of some vigorous discussion at the LGNZ conference in Dunedin on 24-26 July. No doubt His Worship will be able to update the meeting on any developments that occurred at the conference.

In the meantime, the following recommendation is submitted.

RECOMMENDATION

THAT the Council endorse submissions made by Local Government New Zealand and the New Zealand Society of Local Government General Managers to the Local Government Act 2002 Amendment Bill (No2).

< Local
Councils play
an active role
in keeping our
communities
healthy. >

LGA 2002 Amendment Bill (No2)

Local Government New Zealand's submission to the Local
Government and Environment Select Committee

28 July 2016

Contents

DRAFT

We are. LGNZ.

Local Government New Zealand (“LGNZ”) represents the national interests of local authorities and promotes excellence in performance. The organisation provides advocacy and policy services, business support, advice and training to its members so as to assist them build successful communities. Our purpose is to deliver our sector’s Vision: Local democracy powering community and national success.

The Bill before the Local Government and Environment Select Committee raises significant and potentially far-reaching and fundamental matters that cut to the heart of local democracy and the role of local government in New Zealand. That these matters are disguised within a very technical piece of amending legislation does little credit to the New Zealand’s membership of and commitment to the Open Government Partnership (the Open Government Partnership was launched in 2011 to provide an international platform for domestic reformers committed to making their governments more open, accountable, and responsive to citizens).

Accordingly, the leadership of LGNZ wishes to appear before the Local Government and Environment Select Committee to talk to the matters canvassed by this submission.

Summary

[To come]

Introduction

In preparing our submission LGZ has worked collaboratively with our colleagues in the Society of Local Government Managers (“SOLGM”). SOLGM’s submission provides the Committee with a detailed clause by clause analysis of the Bill. LGNZ’s submission provides a strategic analysis that addresses the significant impact of the Bill on our overall system of local government.

Our submission takes a principles-based analysis of the Bill and its potential impact on the ability of councils to meet the needs and preferences of their communities. The submission discusses the strengths and weaknesses of the proposed measures in relation to the principles of good local government and recommends a number of changes.

Some of the Bill’s provisions, if enacted, would undermine the fundamental nature of our local democracy by diminishing the decision-making ability of locally elected representatives and eroding the constitutional separation of local and central government.

That said there are a number of provisions in the Bill that LGNZ supports but these do not obviate our broader concerns.

The nature of local government

Like central government local government is established by Parliament, which determines the framework of rules and the powers within which local authorities operate. Councils are not, unless legislation expressly provides for it, a provider of central government services, rather they exist to allow citizens to make collective decisions about local and regional matters.

The international literature defines true local government as existing when democratically elected bodies have well defined discretionary powers to provide services to their citizens and finance them with the proceeds of one or more exclusive local taxes of which those elected representatives are empowered to set.

The critical characteristics of a local government system are the ability of elected members to make decisions about levels of services and how they are funded. Should these be compromised, a local government can cease to be either local or government becoming, in essence, no more than a decentralized central government agency. In such circumstances the constitutional structure will have been fundamentally changed and local democratic representation will, to all intents and purposes, have ceased.

Principles of good local government

In order to provide a basis for our analysis we have identified six principles which are critical to the effective operation of a local government system. We have based these on the principles in the Local Government Act 2002 and the Draft United Nation's Charter for Local Self Government (which is based on the European Charter). They are:

1. Processes are transparent and open;
2. Decision making powers are adequate to enable elected representatives meet community expectations and statutory requirements;
3. Accountability is clear and unambiguous;
4. The constitutional status of local government is recognised; and
5. Allocative efficiency is achieved.

For New Zealand's communities to flourish LGNZ believes that it is important that any legislative change promotes transparent decision-making; strengthens the decision-making capacity of elected members; results in clear and unambiguous accountability; recognises the constitutional role of local government and promotes allocative efficiency. Some provisions in the Bill fail to promote these principles.

Analysis of the LGA 2002 Amendment Bill (No 2)

The following analysis, which is principle based, does not look at the Bill in detail, for a detailed analysis of the clauses within the Bill we recommend that the Committee read the SOLGM submission, which has been prepared in consultation with LGNZ.

Strengthening transparency and openness

Councils are required to act in a transparent and open manner, as outlined by section 14 of the LGA 2002 which states "a local authority should conduct its business in an open, transparent, and democratically accountable manner". It is important that this principle should also apply to the processes employed by the Local Government Commission ("LGC"), however some aspects of the Bill are inconsistent with this principle, for example:

- The ability of the LGC to remove an activity from the direct oversight of a local authority and to corporatise it without the permission of, and potentially against the wishes of, the council and its community, contravenes this and a number of other important principles and assumes that communities themselves have no view on these activities, many of which have been identified as strategic assets in councils' Significance and Engagement Policies; and
- The proposal to exclude certain information, such as that related to an investigation, from the scope of the Local Government Official Information Act 1987 is unnecessary and may undermine community confidence in the LGC process.

The Bill lacks any clear checks and balances on the degree to which the LGC can corporatise and shift activities out of the direct control of a local authority. Given that water and transport services constitute such a large degree of a council's operational expenditure, particularly in rural districts, any action by the LGC to remove these from direct council control will be of significant community interest and also have major financial implications for the ongoing sustainability of the local authority. This issue will be particularly acute in rural and provincial New Zealand. We suggest that either council or community approval should be required before major activities are corporatised and removed from the direct control of the local authority.

Proposals to create multiply-owned CCOs for major activities (as defined in the Bill) should have the support of the majority of councils involved or their communities.

Ensuring elected representatives have sufficient decision-making authority

An effective democracy enables citizen to vote for representatives on the basis of a policy platform with the expectation that, if elected, the platform will be implemented (should it have the support of a majority of members). It is not clear how an individual council will be able to require a multiply-owned CCO to abide by a local policy for which they have an electoral mandate.

This principle is highlighted within the European Charter for Local Self Government which states that "local authorities shall, within the limits of the law, have full discretion to exercise their initiative with regard to any matter which is not excluded from their competence nor assigned to any other authority". A number of provisions within the Bill, if enacted, may undermine this principle. For example:

- The mechanism for funding a multiply-owned CCO requires councils and elected members to raise property taxes for levels of expenditure over which they have little control. The proposed funding formula will, in practice, make it difficult for an individual council to exercise judgement and discretion over what may be a large part of its income;
- In addition to the lack of discretion with regard to the funding of multiply owned CCOs individual shareholding councils have limited opportunities to influence levels of service within their districts, as these decisions must be agreed by all shareholders and, in practice, will be determined by the joint committee;
- Councils make decisions and adopt policies for the benefits of their communities today and for the future. An unanswered question in the Bill is how an individual shareholding council require a multiply owned CCO to apply specific levels of service or policies within its specific jurisdiction, for example;

- Implementing a buy local procurement policy to strengthen local businesses;
- Adopting policies to promote better transport such as electric cars, cycling and walking; and
- Implementing a strategy to improve streetscapes, from slow roads to extensive urban tree planting.

The Bill fails to provide individual councils with sufficient levers to ensure that substantive, and especially multiply-owned, CCOs deliver services that meet local policies and priorities. Over time this will have a detrimental effect on the willingness of people to participate in local government, either as candidates or voters, given the range of significant decisions likely to be placed outside direct democratic control if this Bill proceeds.

LGNZ recommends that the Bill is amended to give councils better mechanisms, including the right to appoint elected members as directors, for ensuring multiply-owned CCOs are required to meet local priorities.

Promoting clear and unambiguous accountability

An important governance principle requires that decision-makers should be able to be held accountable for their decisions. This enables citizens and consumers to exercise both voice and exit if they are unhappy with the outcomes of those decisions. It is a principle reinforced in the Productivity Commission's 2013 report on Better Local Regulation. Some proposals in the Bill fail to meet this principle. For example:

- The ability of multiply-owned and substantive CCOs to require their shareholding councils to amend a development contribution policy, even though the CCO has undertaken its own consultation, fails this principle as voters will ultimately hold the specific councils and their elected members to account; and
- The extent of the discretion given to the Minister of Local Government to set performance measures for activities which are funded by communities themselves effectively diminishes the accountability of local representatives. The same discretion can also result in 'cost shifting' where, for example, a performance measure is set at a level of service which is greater than the level of service agreed between the council and its community.

The impact of the measures addressed above is such that they contravene the fundamental principle that we (correctly or otherwise) attribute to the Magna Carta that there should be no taxation without representation. This is a highly probable outcome in some districts should extensive use of the multiply owned CCO model be implemented as currently prescribed.

If councillors are to be held accountable for the performance of multiply-owned CCOs then additional mechanisms for holding them to account must be introduced. The situation is exacerbated by the proscription preventing the appointment of elected members as directors of the new CCOs. If councils are funding organisations which operate services owned by the local authority, such as water and waste water services, then the relationship should be a contractual one that allows the local authority, as owner, to change providers.

LGNZ recommends that the Bill be amended to provide shareholding councils in a multiply-owned

CCO with additional mechanism to hold the CCO for its performance, including the right to appoint elected members as directors.

Ensuring that the constitutional role of local government is not undermined

Although not written in a single document New Zealand does have a constitution, which is made up of a collection of statutes and conventions. Local government plays a role in our constitutional arrangements, a role that is often not appreciated. The nature of this role was clearly described by Prof. John Roberts, former professor of Public Administration at Victoria University when he stated:

the growing power of government ... constitutes another reason for the existence of an efficient system of local government. ... Local government is not solely a matter of the management of local services; it provides the democratic machinery for the expression of local opinion on all matters of public policy (Local Government in the Wellington Region 1968)

As Professor Roberts noted, it is important that local government has the policy and decision-making freedom to represent the interests and needs of their communities. Some provisions in the Bill run counter to this principle, for example:

- The proposed power of the Minister to direct the LGC provides future ministers with an unprecedented ability to intervene in the affairs of a local authority. There is no guarantee that such a power will be used responsibly and, given the current intervention framework in the LGA 2002, is unnecessary; and
- The proposed power for the Government to set benchmarks for CCOs and performance measures for discretionary activities similarly erodes constitutional distinction between the two spheres of government as it undermines the contract that exists between local elected members and their communities. Of similar concern is any requirement that Transport CCOs report on the achievement of Government objectives.

Local government is not simply a provider of local services. It is an intrinsic part of a strong and healthy democracy. We must be careful and watchful that its democratic role, including its role to encourage participation of citizens, is not lost without a clear public debate. This Bill is very complex and disguises that it contains a debate of this kind.

LGNZ recommends that the Minister of Local Government's power to direct the LGC is removed.

Allocative efficiency

Allocative efficiency exists where the quality and quantity of public services matches the needs and preferences of those people receiving them. One of the strengths of local government is its proximity to users, knowledge of preferences and ability to tailor services to local needs and preferences. While it may be appropriate for some services to be operated at a level of scale in some areas this is not always the case. It is important that the LGC is prepared to assess options with an open mind given local circumstances.

There are also some provisions in the Bill which, as currently described, may not lead to improved efficiency, for example:

- The multiply-owned CCO model, despite additional accountability requirements such as the

service delivery plan, lacks the commercial disciplines to ensure efficient performance. In practice councils will be unable to sign off levels of service and CCO budgets through their LTP process as agreement is required by all shareholding councils – an agreement that does not appear to reflect the weight of different councils shareholding interests as well as undermining the purpose of the LTP; and

- In 2014 the Government amended the LGA 2002 to require that council services are reviewed at least once every 6 years to ensure they are delivered in an efficient manner. The substantive and multiply-owned CCO models appear to be outside the scope of these reviews. In other words there is no clear way of dis-establishing a multiply-owned CCO should, as a result of new technologies or poor performance, it be found to provide inefficient services.

LGNZ is concerned that the LGC process and resulting decisions will effectively ‘lock in’ service delivery models and seriously constrain the ability of future councils and communities to redesign their governance and service delivery approaches to meet changing needs and technologies.

LGNZ recommends that the establishment of a substantive or multiply-owned CCO be accompanied by a time frame, say 5 years, after which they will be subject to the provisions of s.17A. If this is not accepted then consideration may need to be given to the establishment of an external regulatory agency.

Conclusion

There a number of provisions in this Bill that have LGNZ’s support. For example, we are pleased with the reintroduction of mandatory polls in relation to certain reorganisation options and we support the greater discretion given to the LGC to develop bespoke reorganisation models. It goes without saying that we support the modernisation of the LGC’s accountability framework.

However there are a number of proposed changes that cause us considerable concern for their potential impact on the ability of local authorities to properly fulfil their democratic and governance responsibilities. Those of most concern are:

- The ability of the LGC to establish multiply-owned CCOs without the agreement of either local affected local authorities or their communities;
- The open-ended authority given to the Minister of Local Government to direct the LGC;
- The new power for the Minister of Local Government to establish performance measures for discretionary activities which are fully funded by local communities.

These powers are simply unacceptable in a modern democratic society. They run directly counter to the Government’s own public commitment to, and membership of, the international Open Government Partnership.

The themes we have stressed in our submission concern the need to ensure that elected members have a broad range of decision making powers, as the international evidence shows that as local governments lose salience there is a strong drop off in the willingness of people to vote and similarly the willingness of people with talent to stand. The submission also highlights the need to reinforce the distinction between local and central government. They are different but complementary

spheres of government and we need to respect their particular roles. Finally we ask whether or not the changes will necessarily improve efficiency. There is a risk that the creation of multiple CCOs will fragment local governance and diminish the ability of local governments to develop local policies in order to attract investment and the talent we need to grow not only local economies but the national economy as well.

One conclusion we have come to in our analysis is that the Bill is 'under done'. Much of the detail necessary to understand the implications of the proposed changes is missing and as a result it is difficult for us to properly comment or give support. It is disappointing that this detail was not prepared in advance and LGNZ would note that the local government sector has had no involvement in the preparation of these proposals. The Regulatory Impact Statement drew particular attention to the lack of consultation. This is unacceptably poor process which leads to bad law.

Our concerns are partly summed up by the following comments by the former Minister for Local Government in the United Kingdom.

There was once a time when local government was at the centre of local decision-making. Councils had the power and authority to make a difference. They could bring about dramatic, positive improvements to the local area. Decades of centralisation, however, left councils distracted by bureaucracy and targets and often powerless to make changes. This government will restore local government to its former glory because we believe this is the best way to build a stronger economy and fairer society. – Rt Hon Eric Pickles MP, June 2011 (House of Commons Political and Constitutional reform Committee)

In contrast, New Zealand continues to centralise power in Wellington.

In this Bill the Government is saying that it does not trust local communities to make the right decisions for them.

We reject that position. But that does not mean that we do not agree that local government should not be accountable for the delivery of effective and efficient services to local communities. Of course they should. But the way to address that issue is to improve accountability of local representatives to their communities (LGNZ's recently launched Local Government Excellence Programme is design to do precisely that) not to remove that accountability or lessen the democratic input of those communities' citizens. That is a slippery slope that any progressive liberal democracy should shun, not embrace.

Democracy must be nurtured not legislated away.

We look forward to discussing our concerns with the Committee.

Better Local Services?

**SOLGM's Submission on
the Local Government Act 2002
Amendment Bill (No. 2) 2016**



New Zealand Society of
Local Government Managers

Contents

Table of Recommendations.....	6
Public Engagement on Reorganisations	8
Infrastructure Strategies for CCOs.....	12
Taxation of Water Services Council-Controlled Organisation	15
Schedule Three – General Tax Rules - General treatment.....	16
Rates Rebates Scheme.....	19
Reviews of Effectiveness.....	20
Introduction	22
Who are we?	22
The Policy Context.....	23
The stated intent of the Bill is laudable, but has been lost.....	23
The cost of good quality service is increasing and will do regardless of which agencies deliver the services.....	25
Sharing capability is a lot more prevalent than is commonly recognised	26
Case Study 1: A Successful Shared Initiative - Project Helix	27
Recent legislative changes will further encourage sharing capability	27
Case Study 2: A Commitment to Regional Efficiency – The West Coast Memorandum of Understanding	28
The acquisition of scale generates benefits but these are not uniform.....	29
The consultation process for this Bill was flawed	31
Reorganisations.....	32
Scope	32
Recommendation	32
Community Support	33
Recommendations	34
Good Local Government	34
Recommendations	35
Investigations	35
Recommendations	36
Public Engagement on Reorganisations	36
Recommendation	38
Time limits on reorganisations.....	38
Recommendations	39

Transfer of assets and liabilities	40
Recommendations	40
Local Government Commission	41
Ministerial Expectations.....	41
Recommendations	42
Membership	42
Recommendations	43
Disputes.....	43
Recommendations	44
Bylaws	45
Recommendation	45
Bylaw Powers for Transport CCOs.....	46
CCO Accountability Documents.....	47
Service Delivery Plans.....	47
Recommendations	48
Infrastructure Strategies for CCOs.....	48
Recommendation	49
Shareholder Committees.....	50
Exemption.....	50
Recommendation	50
Unanimity.....	50
Recommendation	51
Committee Membership	51
Recommendation	51
Distribution of Surpluses.....	52
Recommendation	52
Development Contributions Policies.....	53
Recommendations	54
Taxation Matters	55
Tax Status of Multiply Owned or Substantive CCOs.....	55
Recommendation	56
Water Services Council-Controlled Organisation	57
Recommendation	57

Transport Services Council-Controlled Organisation	58
Recommendation	58
Structure of Local Government related tax rules	58
Recommendation	58
Schedule Three – General Tax Rules	59
General treatment.....	59
Recommendation	59
Clause 57 Income and Expenditure.....	59
Recommendation	60
Clause 58 Transfer Values.....	60
Recommendation	60
Clause 59 – Continuity	61
Recommendation	61
Clause 60 - Goods and services tax	61
Recommendation	61
Tax implications and reorganisation plans.....	61
Recommendation	62
Joint governance arrangements.....	62
Recommendation	62
Kiwisaver.....	63
Recommendation	63
Rates Rebates Scheme.....	64
Recommendation	64
Regulation of Performance Measures	65
Additional Performance Measures	66
Recommendations	67
Reviews of Effectiveness.....	67
Recommendation	68
Disclosure of Corporate Accountability Information.....	68
Recommendation	69
Fiscal Benchmarks for CCOs.....	69
Recommendation	70
Wellbeing.....	71

Appendix.....	72
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Table of Recommendations

	Comment	Recommendations
Subsections 24(m) and 24(n)	<p><u>Scope of reorganisation</u></p> <p>The scope of a reorganisation has been widened to incorporate transfers and the establishment of CCOs. As currently worded this places committee structures within councils as a matter that can be reorganised in its own right.</p>	<p>1. That the Commission agree to add the phrase “but only where this is necessary to give effect to other reorganisation under this section” to the proposed new subsections 24(m) and 24(n).</p>
Clause 7(g)	<p><u>Community support for reorganisations</u></p> <p>The test for demonstrable community support has been largely removed from the Bill. This test previously showed a minimum expectation for public support. This test has also helped the Commission conclude whether proposals for political amalgamation would succeed at a poll.</p>	<p>That the Committee:</p> <p>2. agree that proposals for reorganisation initiatives should be required to show demonstrable community support</p> <p>3. agree that the clause 7(g) be amended by deleting the phrase “of significant community opposition to” and replacing this with “that there will be demonstrable community support for ...”</p>
Clause 2, Schedule Three of the Principal Act	<p><u>Good Local Government</u></p> <p>The promotion of ‘good local government’ has been referred to as a requirement for reorganisation. However, the nature of ‘good local government’ does not have a single clear legislative statement of what it actually constitutes.</p>	<p>That the Committee:</p> <p>4. agree that term good local government be defined and added to clause 2, Schedule Three of the principal Act</p> <p>5. agree that proposals for reorganisation initiatives should be required to show how they meet the test of good local government</p> <p>6. agree that reorganisation investigations should be required to demonstrate how they promote good local government.</p>

	Comment	Recommendations
<p>Clause six, Schedule Three</p>	<p><u>Investigations for reorganisation</u></p> <p>Local authorities can provide insight into investigations. Under the principle that the Commission can initiate investigations of its own motion, local authorities do not have the right to comment on proposed matters to be investigated. The Commission does not need to discuss the proposed scope of the investigation with the affected local authorities.</p>	<p>That the Committee:</p> <p>7. agree that the proposed new clause six, Schedule Three be amended to require the Commission to allow local authorities the ability to comment on the scope of any investigation upon notification and before making any decisions on the investigation process</p> <p>8. agree that the Commission should recognise any relevant evidence that others hold (and not just the evidence the Commission holds).</p>

	Comment	Recommendations
Subclause 23(1)(e), Schedule Three	<p><u>Public Engagement on Reorganisations</u></p> <p>One of our most fundamental concerns with the Bill in its present form is that the community's rights to be engaged are not clearly spelt out. It is unclear what process the Commission would be expected to follow when consulting during a reorganisation. The Commission will be making decisions that will have a major impact, as a result public feedback may shape the Commission's conclusions.</p>	<p>That the Committee</p> <p>9. agree that the Commission be required to consult during the reorganisation process using a process or processes in accordance with section 82 of the Local Government Act</p> <p>10. agree that the proposed new subclause 23(1)(e), Schedule Three be amended by adding the words "local authority or to a council controlled organisation" after the word "another". This amendment would require polls for transfers of transport services, water services and RMA to CCOs (subject to the amendment in recommendation 11 below)</p> <p>11. agree that the proposed new clause 23, Schedule Three be amended by adding a clause that reads <i>"Despite subclause 1(e) a reorganisation that has the support of all affected local authorities need not proceed to a poll"</i> or similar</p>

	Comment	Recommendations
Clause four, Schedule Three of the principal Act	<p><u>Time limits on reorganisations</u></p> <p>The Bill appears to propose repeal of the present clause four, Schedule Three of the principal Act. This clause prohibits what the Bill would refer to as reorganisation initiatives and investigation requests where a local authority has been the subject of a reorganisation and the scheme contains a time limit on new initiatives. Continual reorganisation can impact on organisational morale, retention of staff, community perception of the value of democracy etc.</p>	<p>That the Committee:</p> <p>12. agree that clause four, Schedule Three of the principal Act be retained with amendments to provide for the wider scope of reorganisation.</p> <p>13. agree that the proposed new clause seven, Schedule Three be amended by adding a new subclause (b) that would read “the time elapsed since the last investigation of the same, or substantially similar nature, and any relevant changes in circumstance in the intervening period”.</p>
Subclause 12(2), Schedule Three	<p><u>Transfer of assets and liabilities</u></p> <p>It is unclear whether the Government intended that the water assets would transfer to the CCOs. A transfer of assets that is not undertaken with proper consideration of all the implications could place some local authorities at risk.</p>	<p>14. That the Committee agree that the proposed new subclause 12(2), Schedule Three be amended by adding the phrase, “<i>and the financial and service implications</i>”.</p>

	Comment	Recommendations
Subsections 31A(2)(b), 31A(2)(c), 31A(3)	<p><u>Local Government Commission: Ministerial Expectations</u></p> <p>We would expect that as a minimum the Minister would be required to consult, the Commission, the local government sector, through its representative organisation Local Government New Zealand and any other Minister who is likely to be interested in, or whose responsibilities might be affected by the Minister's proposed expectations, when considering priorities for investigations. We consider that ministerial powers should be used transparently.</p>	<p>That the Committee:</p> <p>15. agree that the proposed new subsections 31A(2)(b) and subsections 31A(2)(c) be deleted</p> <p>16. agree that the proposed new subsections 31A(3) be amended to require the Minister to consult the Commissions, the Local Government Association of New Zealand Incorporated¹, and any interested or affected Ministers</p> <p>17. agree that the Commission be required to publish any statements of Ministerial expectations as part of its statement of intent.</p>
Subsection 33(2A)	<p><u>Local Government Commission Membership</u></p> <p>The proposed amendment allows for the appointment of up to two further Commissioners. However, there is no requirement on a Government to appoint or even consider people with a background in local governance, the management or delivery of local services or infrastructural management and delivery.</p>	<p>That the Committee:</p> <p>18. agree that a new subsection 33(2A) be added to the Bill requiring that at least one member must have served as a member or Chief Executive of a local authority</p> <p>19. agree that the proposed new subsections 33(2A) be amended to require the Minister to consult the Local Government Association of New Zealand Incorporated before making an appointment to the Local Government Commission.</p>

¹ This is the legal name of the organisation currently trading as Local Government New Zealand, and is the name used elsewhere in legislation (such as the Rating Valuations Act 1998).

	Comment	Recommendations
Subsections 31H(4) and (5)	<p><u>Disputes resolved by the Local Government Commission</u></p> <p>We note the importance of the proposed provisions that empower the Commission to resolve disputes where authorised in the Bill, and where one or more of the parties to the dispute refer the matter to the Commission. However, we have also noted that as currently worded regional councils may not be recognised as a party in a dispute. Furthermore, there may be additional information created in the course of the local authority's supply of information during a dispute that may not be explicitly removed from the scope of the Official Information Act 1982.</p>	<p>That the Committee:</p> <p>20. agree to extend protection under official information law to include information about a dispute that is supplied to the Commission and</p> <p>21. agree that the proposed new subsections 31H(4) and (5) be amended by adding the words " or Chair of a Regional Council, ..." after the word Mayor.</p>
Section 56J	<p><u>Bylaws</u></p> <p>The proposed section allows for the creation of a joint committee with responsibility to appoint and 'warrant' enforcement officers and commence enforcement actions, essentially overseeing bylaws. It is unclear to us whether the creation of a joint committee specifically to oversee bylaws is necessary.</p>	<p>22. That the Committee agree that the proposed new section 56J be removed from the Bill.</p>

	Comment	Recommendations
Section 56C(2)	<p><u>CCO Accountability documents – Service Delivery Plans</u></p> <p>We support the requirement that substantive CCOs prepare a service delivery plan. However, the wording of this section could be improved, particularly around “environmental factors.”</p>	<p>23. That the committee agree that the proposed new section 56C(2) be deleted and replaced with the “the service delivery plan must set out:</p> <ul style="list-style-type: none"> (i) the shareholders’ objectives and how the organisation contributes to the achievement of these objective (ii) the intended levels of service (iii) programmes of capital expenditure and maintenance necessary to achieve the intended levels of service (iv) demographic, economic and other factors that give rise to the need for expenditure.” <p>24. That the Committee agree that substantive CCOs be required to seek and consider shareholder comments while preparing a service delivery plan.</p>
Section 56D(3)	<p><u>Infrastructure Strategies for CCOs</u></p> <p>The proposed section requires that transport services and water services CCOs should have an infrastructure strategy in place, and notes that other substantive CCOs may be required to have a strategy. However, there is no requirement to seek and consider shareholders comments in preparing the strategy.</p>	<p>That the Committee:</p> <p>25. agree that CCO infrastructure strategies after the transitional should be adopted as part of the CCO’s service delivery plan</p> <p>26. agree that the proposed new 56D(3) be amended by deleting the phrase “Subsections (3) and (4)” and replacing it with “Subsections (3), (4) and (6) ...”.</p> <p>27. agree that substantive CCOs be required to seek and consider shareholder comments while preparing an infrastructure strategy.</p>

	Comment	Recommendations
Section 56W(3)	<p><u>Shareholder Committees - Exemption</u></p> <p>Under the proposed section regarding exemption local authorities do not need to form shareholder committees if “each” of the shareholding local authorities resolves to separately perform its duties as a shareholder. The intent of the word “each” may need to be clarified.</p>	28. That the Committee agree to replace the term “each” with the term “all individually.”
Section 56W(4)	<p><u>Shareholder Committees - Unanimity</u></p> <p>The proposed section requires that in circumstances where shareholding local authorities resolve to exercise their shareholders duties individually then the obligations can only be resolved by unanimous agreement, the unanimous requirement may prove to become difficult for CCOs that may be large entities.</p>	29. That the Committee agree to delete the term ‘unanimous agreement’ in section 56W(4) and replace with ‘by resolution of two-thirds of the shareholding authorities’.
Section 41A(5)	<p><u>Shareholder Committee Membership</u></p> <p>There may be a potential disconnect between the provisions for a joint shareholder committee under the proposed section 56W of the Bill and the present section 41A (which establishes that a Mayor is an ex-officio member of all council committees and subcommittees).</p>	30. That the Committee agree that section 41A(5) be amended by adding the phrase “other than a joint shareholders committee established under section 56W of this Act”.

	Comment	Recommendations
	<p><u>Distribution of Surpluses to Shareholders</u></p> <p>Water services CCOs have been expressly prohibited from distributing a surplus to any of its shareholders under the Bill, however this rationale has not been applied to transport CCOs. Public concern about any charging for road use is likely to be of equal concern.</p>	<p>31. That the Committee agree to add a provision prohibiting transport services CCO from distributing a surplus to shareholders.</p>
Section 31H	<p><u>Development Contributions Policies</u></p> <p>Setting development contributions is an important policy choice for local authorities, subject to public consultation. We are unclear that an unelected board of a CCO should be able to simply “require” a local authority to amend its development contributions policy, and without a direct requirement to consult the affected local authorities. Additionally, the Bill requires the administering local authority to pay all development contributions to the CCO, less the reasonable cost of administering the policy. However, an administrative cost cannot be regarded in any way as a capital cost due to growth. The practical effect of this is that any attempt to recover an administrative cost through a development contribution would be ultra vires.</p>	<p>That the Committee</p> <p>32. agree that substantive CCOs and their shareholding local authorities should agree on the contents of amendments to development contributions policies and</p> <p>33. agree that disputes between substantive CCOs and their shareholding local authorities regarding the content of any proposed amendments should be resolved by the Local Government Commission under the proposed new section 31H</p> <p>34. agree that subpart five of part eight of the principal Act be reviewed to ensure that recovery of the costs of administering the policy can be legitimately recovered via development contributions</p> <p>35. agree that subpart five of part eight of the principal Act be reviewed to ensure that the provisions now reflect what has become a three way relationship between the developer, the local authority and the CCO.</p>

	Comment	Recommendations
Section YA 1 of Income Tax Act 2007	<p><u>Tax Status of Multiply Owned or Substantive CCOs</u></p> <p>Any reorganisation that results in local authority core activities being transferred to a CCO mean that these activities will become subject to income tax at the CCO level, as will any income received by a local authority from a CCO. It should be noted that core activities do not compete with the private sector and should be treated as if they were provided by a local authority.</p>	<p>36. That the Select Committee agree that CCOs that are wholly owned by local authorities, provide core functions, and do not compete or are unlikely to compete with private sector enterprises should be subject to the same tax treatment as a local authority.</p>
Section YA 1 of Income Tax Act 2007	<p><u>Taxation of Water Services Council-Controlled Organisation</u></p> <p>Due to the proposed prohibition on water services council-controlled organisations being able to pay a dividend or distribute any surplus to any owner or shareholder then any profits will be subject to income tax wholly within the water services council-controlled organisation.</p>	<p>37. That the Select Committee agree that water services CCOs should be exempt from income tax. This could be achieved by defining a water services CCO as a "local authority" in section YA1 of the ITA 2007</p> <p>38. That the Select Committee confirm that the prohibition on water services CCOs distributing surpluses is akin to not operating with the purpose of making a profit.</p> <p>39. That the Select Committee clarify the ambit of clause 56H(a) including whether this extends to the ability of a water-services CCO to provide discounts or rebates to any owner or shareholder; make subvention payments to shareholders (in the event they are not income tax exempt) or accept/receive tax loss offsets from shareholders (in the event they are not income tax exempt).</p>

	Comment	Recommendations
Section YA 1 of Income Tax Act 2007	<p><u>Taxation of a Transport Services Council-Controlled Organisation</u></p> <p>It appears that a transport services council-controlled organisation will be subject to income tax if it is a company or an "entity" that has a profit purpose (i.e. it is a CCTO). We note that this differs to the tax treatment of Auckland Transport which is defined as a local authority for the purposes of the ITA 2007.</p>	40. That the Select Committee agree that transport services CCOs should be exempt from income tax. This could be achieved by defining a transport services CCO as a "local authority" in section YA1 of the ITA 2007.
Schedule Three of the Bill and Schedule Nine of the Principle Act	<p><u>Structure of Local Government Related Tax Rules</u></p> <p>The rules in Schedule Three of the Bill will apply when there is a reorganisation under proposed section 24 of LGA 2002. However, we note that pre-existing tax rules applicable to the transfers of undertakings to CCOs already exist within Schedule Nine of the Principal Act.</p>	41. That the Select Committee agree that officials be directed to review the Schedule Three provisions against Schedule Nine of the principal Act.
Clause 55 (1) of Schedule 3	<p><u>Schedule Three – General Tax Rules - General treatment</u></p> <p>Breadth of general rules proposed under schedule 3 could extend beyond what is intended.</p>	42. That the Select Committee agree that the ambit of the General Rules be restricted to matters associated with assets, liabilities or voting/market interests referred to in proposed clause 55 (1) of Schedule 3.

	Comment	Recommendations
Clause 57	<p>Clause 57 Income and Expenditure</p> <p>The proposed clause 57 is ambiguous as it seeks to specify that income and expenditure incurred by a transferring entity before the date of transfer does not become that of the receiving entity simply because of the transfer of assets and liabilities. Additionally, <i>expenditure</i> on financial arrangements, depreciable property, trading stock etc. are dealt with elsewhere.</p>	43. That the Select Committee agree that all references to “expenditure” in Clause 57 be replaced by the term “expenses.”
Clause 58(2)(a), Section EE 58(1) of Income Tax Act 2007	<p>Clause 58 Transfer Values</p> <p>Proposed clause 58(2)(a) specifies that where such depreciable property is transferred to a receiving entity and will not be used for deriving exempt income then the transfer occurs on the transfer date at <i>accounting carrying value</i> on that date. We submit that the transfer value in this circumstance should be the <i>market value</i>. It is our understanding that this would be consistent with section EE 58(1) of Income Tax Act 2007.</p>	44. That the Select Committee agree to seek further advice as to whether transfer values for the purposes of clause 58 should be market values.
Clause 59	<p>Clause 59 – Continuity</p> <p>It is possible that only a part of the operations of a transferring entity is transferred to a transferring entity. In this instance, it is possible that only a portion of a tax loss, loss balance or imputation credit balance should be available to the receiving entity.</p>	45. We submit that the Committee consider whether an apportionment of losses and/or imputation credits may be required and determine a mechanism to achieve this.

	Comment	Recommendations
Clause 60(2)	<p><u>Clause 60 - Goods and services tax</u></p> <p>The intent of clause 60(2) is unclear and at the very least requires a minor amendment.</p>	46. That the Select Committee agree that Clause 60 should be clarified. In the event that the Committee determines that no such clarification is required, it should be amended so as to insert "output" prior to "tax payable".
Clause 11, Schedule Three	<p><u>Tax implications and reorganisation plans</u></p> <p>The proposed new clause 11, Schedule Three does not specifically place the Commission under a duty to consider other implications, including tax costs to ratepayers.</p>	47. That the Select Committee agree that that clause 11, Schedule Three be amended to ensure that the Commission is required to ensure that the tax implications for ratepayers are identified in reorganisation plans, and that the reorganisation plans take steps to minimise the impact on ratepayers.
Section 24	<p><u>Joint governance arrangements</u></p> <p>Under section 6 of LGA 2002 a committee or joint committee of a council is specifically excluded from the definition of an "entity". The ramification of this is that such a committee cannot fall within the definition of a council-controlled organisation for tax purposes. However an "entity" does include "unions of interest" and "cooperation" or "similar arrangements". Previous tax concerns have existed around the meaning and boundaries of these terms.</p>	48. That the Select Committee agree that the proposed schedule there be amended to clarify that committees and joint committees established under a section 24 reorganisation be treated the same as local authorities for income tax purposes.

	Comment	Recommendations
Kiwisaver Act 2006 (new subpart 4), Part Four of Schedule Three	<p>Kiwisaver</p> <p>There is a possible discrepancy in the treatment of employees moving to CCOs and Kiwisaver.</p>	<p>49. That the Select Committee consider whether clauses affecting the employment status of employees and the application of the Kiwisaver Act 2006 should be included within the new subpart 4, of Part Four of Schedule Three. We understand provisions similar to the present clauses 49 and 50 of Schedule Three of the principal Act would be useful.</p>
Paragraph 39 of the associated Cabinet paper	<p>Rates Rebates Scheme</p> <p>Paragraph 39 of the associated Cabinet paper appears to contemplate change to the rates rebate scheme to ensure water and wastewater charges fall within the ambit of the scheme. We can find no such amendment in the legislation and suggest that one is needed.</p>	<p>50. That the Committee agree that water and wastewater charges levied by CCO should be included within the ambit of the Rates Rebate Scheme and amend the Bill accordingly</p>

<p>Section 261</p>	<p><u>Additional Performance Measures</u></p> <p>We have previously expressed concerns that the performance measures that are currently required under the authority of sections 259 and 261A are focus only on network infrastructure and therefore do not reflect the total ambit of local authority activity. The existing measures have required guidance and supporting material, with local authorities considering how best to collect the data. Furthermore, consistent benchmarking requires quality data, with quality data infrastructure provided by local authorities. However, the proposed sections do not consider implementation guidance or whether there should be a lead time for the introduction of new regulations.</p>	<p>That the Committee</p> <p>51. agree that s261B of the principal Act be amended to require the Secretary to allow at least 18 months lead time on any new regulations made under s261</p> <p>52. agree to amend the principal Act by adding a new section that requires the Secretary to make implementation guidance with six months of making new regulations under s261B</p> <p>53. agree to amend references to disallowable instruments in clause 33 by removing the word “not” from line 31 and replacing the words “does not have to” in line 32 with the word “must”.</p>
<p>Sections 259 and 261 of the principal Act</p>	<p><u>Reviews of Effectiveness</u></p> <p>While we agree that the Minister should consider the effectiveness of local authorities’ performance, we have expressed concerns about the relevance and usefulness of some of the current mandatory performance measures that sit within the present regime.</p>	<p>54. That the Committee agree to amend the principal Act by adding a requirement to review the effectiveness of existing regulations made under sections 259 and 261 of the principal Act before making new regulations.</p>
<p>Clause 32, section 259(d)(f)</p>	<p><u>Disclosure of Corporate Accountability Information</u></p> <p>Clause 31 of the Bill prescribes the corporate accountability information that local authorities must disclose in any or all of their accountability documents, as presently drafted this power is excessively vague.</p>	<p>55. That the Committee agree to amend clause 32 of the Bill by either deleting the proposed new section 259(d)(f) or deleting the term ‘corporate accountability information’ and replacing it with a list of the required information.</p>

<p>Section 259(4) of the principal Act</p>	<p><u>Fiscal Benchmarks for CCOs</u></p> <p>The Bill provides the Minister with the power to establish parameters or benchmarks for assessing the financial management within CCOs. Our concern is that poorly set parameters or benchmarks could generate frequent ‘false positives’ (i.e. a result that falsely indicates an issue) or (worse) ‘false negatives’ (i.e. a result that indicates a false ‘green light’). These risks could be mitigated by requiring consultation with the experts in financial management in local authorities and their associated entities.</p>	<p>56. That the Committee amend section 259(4) of the principal Act by deleting all words after “consultation” and replacing with “with:</p> <ul style="list-style-type: none"> (i) the New Zealand Local Government Association Incorporated; and (ii) the Society of Local Government Managers; and (iii) the Auditor-General.”
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Introduction

The New Zealand Society of Local Government Managers (SOLGM) thanks the Local Government and Environment Committee (the Committee) for the opportunity to submit on the Local Government Act 2002 Amendment Bill ('the Bill').

SOLGM generally supports the aspects of this Bill that provide a wider range of options to enhance the delivery of local services, and enhances the ability of local authorities and their communities to initiate their own solutions.

As we have worked through the Bill introduced into Parliament we have become concerned at the extent of the powers this Bill extends to an unelected Local Government Commission, and to the Minister. The Bill also widens the power to regulate the content and presentation of the sector's accountability documents to a point that impinges on the accountability relationship between local government and its community.

Our submission considers these two issues, and offers what we consider are constructive solutions that enhance the ability of communities to determine their own arrangements while maintaining local accountability.

We are also concerned that this Bill and the Cabinet paper that preceded it each show signs of haste in construction, and have been prepared with little consultation with the sector. There are a number of technical and practical issues with this Bill – not least that in the focus on accountability arrangements for CCOs, little apparent thought has been given to the impact on accountability arrangements for CCOs. We have devoted a great deal of effort to developing solutions that will make the Bill more workable to implement, and in some cases correct issues of a technical or practical nature.

Who are we?

SOLGM is a professional society of over 625 local government Chief Executives, senior managers, and council staff with significant policy or operational responsibilities.² We are an apolitical organisation. Our contribution lies in our wealth of knowledge of the local government sector and of the technical, practical and managerial implications of legislation.

Our vision is:

Professional local government management, leading staff and enabling communities to shape their future.

² Numbers as of 1 July 2016.

Our primary role is to help local authorities perform their roles and responsibilities as effectively and efficiently as possible. We have an interest in all aspects of the management of local authorities from the provision of advice to elected members, to the planning and delivery of services, to the less glamorous but equally important supporting activities such as electoral management and the collection of rates.

Although we work closely and constructively with Local Government New Zealand, we are an independent body with a very different role. We have read, and generally agree with the submission that they have put forward on this Bill.

The Policy Context

"The Bill will enable two or more councils to create council-controlled organisations (CCOs). Multiply-owned CCOs can have greater size, scale and capacity than can be achieved by individual councils," Mr Lotu-iga says.

For the first time, councils will be able to lead reorganisation proposals in consultation with their communities and neighbouring councils.

"The Bill also provides for the Local Government Commission to have enhanced powers to work with councils and government to support reorganisation proposals."

Press release from Hon Peseta Sam Lotu-iga³

The stated intent of the Bill is laudable, but has been lost

The Minister's statements that open this section point to a reform package that is enabling, that is council led, with the Commission in a supporting role. The end objective to provide councils with more flexibility to determine what service arrangements suit them best including better enabling transfers of functions and the establishment of CCOs.

Amendments to the Act during 2012 established that the purpose of local government is to "provide good quality local infrastructure, local public services and local regulation, in a manner most cost-effective for households and business."⁴ Good quality is defined as a service that is effective, efficient and appropriate to the present and future needs of the community.

SOLGM therefore takes a pragmatic approach to the delivery of services. We support the rights of local communities to determine what institutional arrangements work best in local circumstances,

³ Hon Peseta Sam Lotu-iga, *More Local Body Collaboration for Councils*, press release of 15 June 2016 downloaded from <https://www.beehive.govt.nz/release/more-local-body-collaboration-councils-0>, data retrieved on 19 July 2016.

⁴ Section 10, Local Government Act 2002.

SOLGM would support legislation that removes the legal and practical barriers to the acquisition of scale **and** better empowers the sharing of capability across the sector.

However the Bill takes quite a different approach from that signalled in the above statements. We would agree that the Bill does better enable councils to create CCOs and does empower council/community led reorganisation.

We would also agree that the Commission *could* operate merely as a *support* for councils through the process. However, the Commission's role goes some way beyond being a supportive enabler of change. In fact, the Commission has the powers to impose change with limited recourse to the community. We provide an in-depth analysis within this submission. However some of the examples of this include:

- Ministerial authority to direct the Commission as to what proposals to focus on is extremely broad, As the Bill stands, the Minister could direct the Commission to pursue proposals of a certain type, or across a certain service or in a particular area (or alternatively avoid pursuing proposals in some areas). This has the potential to inject politics into a body that has historically operated at arms-length from politics.
- The Commission may, on its own motion, initiate investigations (the first step in the reorganisation process) without discussing with the affected local authorities. It need only notify the affected local authorities.
- The Commission may establish multiply owned CCOs without the community having the chance to call for a poll (as is the case with other types of reorganisation) and with the Commission getting to determine what consultation process it follows (if any).

We submit that this Bill is a very different entity from that signalled in the Minister's public statements. Rather than being grounded in a philosophy that local communities are best placed to identify what works best for them, the Bill's underpinning philosophy appears to be that between three and five unelected officials are better placed to make decisions.

Local government is accountable to local communities for quality service

Our system of local government is based on accountability to local communities. The contract between a local authority and its community involves the delivery of a 'package' of levels of service in return for taxes and charges.

Performance information from publicly available sources shows that local authorities are generally delivering high standards of service to their communities. For example:

- the vast majority of councils met their financial benchmarks (71% had a balanced budget, 71% met the essential services benchmark and 97% met debt servicing requirements)
- most councils (52 out of 61) delivered between 90 to 100 percent of building consents within the statutory time frames

- similarly, the overwhelming majority of councils (63 out of 68) delivered between 90 to 100 percent of resource consents within the statutory timeframes
- 94 percent of councils had a road condition index of 95 or greater (62 out of 66 councils), that is to say that roads are being maintained to acceptable standards
- requests for Ombudsman's intervention involving local authorities account for a small percentage of the total number of requests received by the Ombudsman. There were only 7 instances where the Ombudsman sustained a complaint involving a local authority.

The cost of good quality service is increasing and will do regardless of which agencies deliver the services

Local government is frequently criticised *for the level of rates increases* – in particular that rates are increasing “faster than the rate of inflation”. Although this statement is correct, it ignores that the cost drivers for a local authority are quite different from those that a household faces. Simply put, using household inflation to measure local authority costs is wrong.

Local authority costs are driven by the costs of providing infrastructure – be it roads, water, or community infrastructure. By way of illustration, in the period between June 2005 and June 2015 the Consumers Price Index (CPI) has increased 25 percent, the Producers Price Index (Construction – Outputs) has increased 44 percent.⁵ Both measures are developed by an organisation that is independent of central and local government direction and can therefore be regarded as objective.

Each year BERL compile a set of forecast movements in the prices of the goods and services local authorities consume, using the same model BERL uses for its general economic forecasts. This local authority cost index is forecast to increase by around 29 percent over the coming years.⁶

Increases in the cost of infrastructure and increases in rates cannot be logically separated. Yet we are aware of only one substantial (but dated) piece of research that assessed and evaluated the drivers of cost increases, and that was limited to roading.⁷ That report noted that road construction input costs had increased 30 to 40 percent in the preceding five years, with the author of the report further noting both that the increase was unavoidable and that this trend was mirrored in other countries.

Movements in construction prices are largely beyond a local authorities control – noting that all but the most minor capital work, and much of the maintenance work is ‘market-tested’ i.e. put to

⁵ The Local Government Act refers to this index as a measure of movements in construction prices. The PPI index we consider most closely approximates movements in infrastructure costs – that for Heavy and Civil Construction increased 51 percent.

⁶ BERL 2015, *Forecasts of Price Level Change Adjustors – 2016 Update*. These are not forecast rates increases or expenditure increases, these are forecasts of the key producers cost and labour cost indices produced by Statistics New Zealand.

⁷ Ministerial Advisory Group (2006), *Ministerial Advisory Group on Roading Costs – Final Report*.

competitive tender. The only real response available in these circumstances is to reduce the amount that is constructed, and this is not available in an environment where increases to service standards and demands for additional services on local government, often as a result of a policy direction from central government.

Sharing capability is a lot more prevalent than is commonly recognised

Local authorities do not compete with each other (in the sense that a private sector organisation would). One of the strengths of the local government sector is its ability to share capability. This takes many forms, ranging from something as informal as Hastings District (among others) assisting Christchurch City Council to clear the backlog of resource consents that existed in 2013, to more formal arrangements such as the establishment of Council Controlled Organisations (CCOs).

At the end of 2015 SOLGM undertook a short survey to determine how common shared capability arrangements were in the sector. The survey was done at short notice in December, but 35 councils still responded. All were involved in at least one such arrangement, with 80 percent stating they were involved in six or more. Shared capability arrangements also appear across most areas of local authority activity, not just in the network infrastructure. A summary of the results can be found in Appendix A.

The following case study highlights local government's ability to share, and to innovate for successful outcomes.

Case Study 1: A Successful Shared Initiative - Project Helix

Selwyn District has been New Zealand's fastest growing district for the past six years, and is a major player in the Canterbury rebuild. To ensure Council coped with sustained high levels of building activity it needed a better tool for managing demand and delivering service expectations.

Selwyn District Council in partnership with Alpha Group has developed and implemented an end-to-end, web-based building consent system (AlphaOne) to support its objectives of promoting excellence in service delivery and providing community and industry leadership as a territorial authority.

In an environment where central government is looking at national building consent systems, Selwyn and Alpha designed the product to address aspects such as shared services, faster consenting processes to stimulate the economy, and more efficient interactions with community and businesses. The results to date demonstrate a commitment to local government principles of territorial authorities working together to manage workloads, share resources and reduce compliance costs.

Project Helix was the winner of the Supreme Award at the 2015 McGredy Winder SOLGM Local Government Excellence Awards ® (as well as the Transforming Service Delivery category). At the time of writing this submission six councils have purchased the tool. To further demonstrate that innovation is a strong point in local government, Kaipara District Council's adoption of AlphaOne received a highly commended citation in the same category.

Recent legislative changes will further encourage sharing capability

Changes made to the Local Government Act during 2014 will serve as a further spur to local authorities to explore options for sharing capability. The new section 17A of the Act requires local authorities to periodically assess the cost-effectiveness of the arrangements for funding, governance and delivery of those services, together with a list of options that must be considered.

Many of these options in these service delivery reviews involve delivery by some combination of local authorities (such as a council owned company or joint venture). SOLGM guidance strongly recommends that local authorities undertake these reviews as a group – for example it would not be an efficient use of resources if each of the 10 territorial councils in a region each did a separate review of the same services.

The case study below shows just a sample of arrangements for shared capability that exist amongst the four councils on the West Coast, together with their targets for review during the section 17A process.

Case Study 2: A Commitment to Regional Efficiency – The West Coast Memorandum of Understanding

The three West Coast territorial authorities and the West Coast Regional Council recently agreed to a unified approach to generate greater efficiencies in service delivery across the region. Guided by what is best for the community as a whole, the four councils agreed to a Memorandum of Understanding.

Over time the four councils have worked collaboratively on more than two dozen projects or approaches. Some of the projects of interest include:

- a recent restructure of civil defence staff so they are now joined up and delivering on regional priorities through a new organisation (Civil Defence West Coast)
- a very new project to jointly deliver economic development at regional level
- joint procurement of insurance has resulted in substantial savings
- adoption of a Regional Transport Plan focussed regional effort on improving a key strategic route and a key one-lane bridge replacement
- Westland, Buller and Grey District Councils have joined up their building permit services (using Selwyn's Alpha One technology)
- joined up library services and approximately twenty other initiatives.

The four councils may consider the following during the section 17A process:

- a shared RMA planning, consenting and compliance monitoring team for the region
- a regional advocacy and policy development advice team
- Asset Management Plan and corporate (Long Term) planning as a team
- joint back office services (payroll, valuation & rates collection, accounting services)
- common IT support services
- a shared Communications officer and sharing of community engagement expertise
- a shared Regional Archive
- common HR and legal services offices
- a road maintenance centre of excellence
- a solid waste management centre of excellence
- a water supply centre of excellence and
- a wastewater treatment centre of excellence.

The acquisition of scale generates benefits but these are not uniform

One of the characteristics of much of the network and community infrastructure is that there are a number of small scale schemes and assets that are geographically dispersed. For example, Tasman District Council has no fewer than 15 water schemes and 12 wastewater schemes.

Cost structures are influenced not just by how many people live in a local authority, but also by how spread out they are. The 2013 Report of the Local Government Infrastructure Expert Group noted that:

Greater scale requires a larger and more complex bureaucracy and the centralisation of services can lead to a loss of local knowledge, expertise and reduced community engagement. In addition, not all services provided by local government may benefit from economies of scale, or may benefit only up to a point before diseconomies of scale emerge i.e. the per capita cost of a service stops declining and begins to increase.⁸

and

Having reviewed international empirical evidence, it is clear that there is no universally recognised optimal population size for local authorities that will maximise economies of both scope and scale over the full range of services. It is very much a “horses for courses” situation. Some services are more efficiently provided locally, others regionally, depending on the particular activity.⁹

Claims that amalgamation of services will automatically generate economies of scale should be treated with caution. Economies of scale may not be present in every case.

There is, as yet, relatively little evidence on the impact that the acquisition of scale has had in the New Zealand context. It seems to us that the establishment of the so-called substantive CCOs in the Auckland Governance reforms have been the prototypes for the water and transport services CCOs in the Bill. An evaluation of the performance of these organisations would be expected.

That is not to say that there are not advantages in agglomerating services. One available to owners of network infrastructure is the ability to “network price”. That is to say, set up a funding system where the bigger or more mature parts of the network cross subsidise the new capital works needed in another, usually smaller, part of the district. There was an observable move towards network

⁸ Local Government Infrastructure Expert Group, *Report of the Local Government Infrastructure Expert Group*, page 124.

⁹ Local Government Infrastructure Expert Group, *Report of the Local Government Infrastructure Expert Group*, page 127.

pricing in the 2012 LTPs, and still more local authorities consulted their communities on the issue during 2015.

The other potential benefit is the generation of strategic capacity. It can be difficult to attract suitably skilled and experienced engineers and asset managers to local government as a sector, particularly for rural and provincial local authorities. Agglomerating brings groups together which creates additional learning and sharing of expertise – and is the underpinning of the regional centre of excellence models.

There are some less positive aspects that can arise from the acquisition of scale, particularly where scale is achieved by setting up functional entities. The Bill provides for ‘off the shelf’ models for transport, roads and water services, and also appears to contemplate that some Resource Management Act functions could be fitted into a similar model. There is invariably some loss of integrated, co-ordinated planning and some replacement with functional siloes. The one report looking at the impact that the creation of Auckland’s substantive CCOs has had on services and costs in Auckland noted that

There is some concern that the restructuring of Auckland’s governance has removed geographic siloes, creating instead – with the CCO model – functional services where assets and services operate independently from the rest of the council structure. This is particularly the case with Auckland Transport and Ports of Auckland Limited, which are further removed from council oversight than other CCOs, and whose scale and scope of operations are vital to the on-going development of Auckland. That said the CCOs model has meant that the council has been able to draw on commercial and professional expertise in managing these assets and delivering crucial regional services, and the CCOs have been able to focus on their core mission shielded from daily political concerns.¹⁰

This is not an academic consideration. Entities that operate in functional siloes and, for example, require multiple transaction points to connect to infrastructure networks, do not encourage the rapid building of affordable houses.

Change of the nature signalled in this Bill will be considerable. We submit that change of this nature should be staged. It should begin by identifying two or three areas where the commitment to change is demonstrable and piloting a new CCO model with an evaluation after a couple of years. We agree that infrastructure is a key part of New Zealand’s economic performance, and that it is important to make evidence-based decisions and not rely on theory.

¹⁰¹⁰ Shirley et al (2016), *The Governance of Auckland, Five Years On* page 9.

The consultation process for this Bill was flawed

SOLGM would like to express concern over the nature of consultation with the local government sector, and the manner in which this Bill has been developed. The Disclosure Statement that accompanies this Bill provides Treasury's assessment that the Bill only "**partially meets** the [Government's set] quality assurance criteria" and further notes that:¹¹

*The importance of council willingness and capability and public acceptability, to the successful use of greater flexibility and choice is made clear. This highlights that the lack of wider consultation with local government and information about LGNZ and the reference group leaves a significant gap.*¹²

SOLGM would like to highlight the importance of working with stakeholders in the development of legislation to ensure that issues of the technical nature are addressed early within the process. Our organisation represents highly knowledgeable senior management, Chief Executives and council staff throughout the nation. Our expertise could have helped aid and inform the preparation of this Bill.

SOLGM was **not** consulted in the preparation of the Better Local Services package – we became aware of the content of the announcements an hour before the general public. SOLGM has been consulted in the development of the last three Local Government Bills (those in 2010, 2012 and 2014), including sighting legislation in draft. SOLGM was not shown this legislation in draft. We understand that Local Government New Zealand likewise did not see the draft legislation, and became aware that this Bill was in the public domain only when contacted by a policy advisor to one of the MPs that sits on the crossbenches. Officials did not even see fit to advise us of the introduction 'after the fact'.

We leave it to the Committee to judge whether this represents a best practice approach to the development of legislation (or even good practice). We consider that many of the technical and practical issues we raise could have been resolved before introduction of the Bill. In short, officials could have saved a great deal of the Committee's time (and their own).

¹¹ Department of Internal Affairs (2016), Departmental Disclosure Statement, page 5

¹² Department of Internal Affairs (2016), page 5.

Reorganisations

The Bill makes a large number of substantive changes to the provisions that govern reorganisations including changing the purpose of reorganisation, the types of reorganisation that can be made, and the processes through which the change is made. In preparing this submission we have worked through the provisions at a micro level and recommend a number of amendments.

Scope

We note that the scope of a reorganisation has been widened to incorporate transfers and the establishment of CCOs. The proposed new subsections 24 (m) and (n) provide the Commission with the power to establish Committees and Joint Committees and delegate powers to these bodies. We can easily understand why the Commission might need a power to establish these as part of giving effect to some types of reorganisation, for example a joint bylaws committee for a water CCO. As worded it seems to us that this provision places committee structures within councils as a matter that can be reorganised in its own right, for example by requiring a council with a Finance Committee and a Planning Committee to combine the two together.

If this is the case then it appears to be a very significant intrusion into the internal governance of local authorities with no apparent rationale. This appears to us to have been a drafting error.

Recommendation

- 1. That the Committee agree to add the phrase “but only where this is necessary to give effect to other reorganisation under this section” to the proposed new subsections 24(m) and 24(n).**

Community Support

Clause eight, schedule three of the principal Act currently requires that any reorganisation proposal must have demonstrable community support, and that this is one of two fundamental tests that a reorganisation currently has to meet. As it stands, the Bill would largely remove this test from the Act.

Under this Bill, a reorganisation initiative may, but does not have to include information that demonstrates the initiative has community support. As far as we can determine, the Commission is not empowered to decline a reorganisation that is missing this information.

As imperfect a test as demonstrable community support was, it at least established a minimum expectation and acted as a means of weeding out proposals that were unlikely to have public support. This test helped the Commission conclude that there were no proposals for political amalgamation that would succeed at a poll.

These reforms were predicated on a commitment that they would give local communities *“greater value for money in their service delivery arrangements without communities losing voice and choice”*.¹³ An initiative that does not start by showing it has demonstrable community support can hardly be said to protect community voice and choice.

We submit that the Bill must be amended to ensure that initiatives have demonstrable community support. In our view this should occur in two places:

- as one of the mandatory contents of a reorganisation initiative or investigation requests (this might be an additional (e) to the proposed new clause four of Schedule Three and reads “information that shows that the reorganisation initiative has demonstrable community support”
- as one of the steps in a reorganisation investigation (the wording of the present clause 7(g)) referring to significant community opposition which, in our view, is not a sufficient standard of proof. There should be a positive consensus for change. This should be amended to read *“the likelihood that there will be demonstrable community support for...”*

¹³ Minister of Local Government (2016), *Local Government – Better Local Services Reforms*, paper to the Cabinet Economic Growth and Infrastructure Committee, page 3.

Recommendations

That the Committee:

2. **agree that proposals for reorganisation initiatives should be required to show demonstrable community support**
3. **agree that the clause 7(g) be amended by deleting the phrase “of significant community opposition to” and replacing this with “that there will be demonstrable community support for ...”**

Good Local Government

There is a second test that reorganisation proposals must meet under current legislation. Clause 12 of the Third Schedule to the principal Act requires that reorganisations meet the so-called ‘good local government test’, which is specified at length.

The bottom line that reorganisations should promote good (dare we say better) local government lives in the Bill. The purpose of reorganisation (as amended in clause 8 of the Bill) refers to “*the (promotion) of good local government ...*” A reorganisation plan has to state how it will promote good local government. And we agree that many of the key elements of the present test of good local government have been incorporated in the Bill.

We submit however, that the fundamental, emblematic nature of ‘good local government’ merits a single clear legislative statement of what the term constitutes. This should be incorporated in the interpretation section of the Third Schedule (i.e. clause two, Schedule Three).

Under the principal Act as it stands, all reorganisation proposals provide description of the potential improvements that would result from the proposed changes and how they would promote good local government.¹⁴ The Bill makes no such requirement beyond “an explanation of the outcome that the proposed changes are seeking to achieve.” We submit that having to demonstrate consideration of a test of good local government is a check on proposals that are being made for frivolous or non-substantive grounds. We submit that such a test should be inserted into clause four, Schedule Three.

¹⁴ Clause 5(1) e, Schedule Three, Local Government Act 2002.

Recommendations

That the Committee:

- 4. agree that term good local government be defined and added to clause 2, Schedule Three of the principal Act**
- 5. agree that proposals for reorganisation initiatives should be required to show how they meet the test of good local government**
- 6. agree that reorganisation investigations should be required to demonstrate how they promote good local government.**

Investigations

The Commission can initiate investigations of its own motion.

We support this in principle but note that the Commission does not need to discuss the proposed scope of the investigation with the affected local authorities. The proposed new clause six, Schedule Three appears to require the Commission only to notify the affected local authorities.

We submit that natural justice requires that the notification to the local authority come with the right to comment on the proposed matters to be investigated, and provide an indication of any information that the local authority holds that may be relevant. Each will better enable the Commission as it develops the process document. The latter will also be a relevant principle under the proposed new subclause 8(3)(c), Schedule Three.

On a purely technical note, the term 'process document' that is used in the proposed new subclause 8(2) of this Schedule is a term that does not occur anywhere else in this Bill. We suggest that this term should be amended to read "the written record made under (1) above" (or similar).

Recommendations

That the Committee:

- 7. agree that the proposed new clause six, Schedule Three be amended to require the Commission to allow local authorities the ability to comment on the scope of any investigation upon notification and before making any decisions on the investigation process**
- 8. agree that the Commission should recognise any relevant evidence that others hold (and not just the evidence the Commission holds).**

Public Engagement on Reorganisations

One of our most fundamental concerns with the Bill in its present form is that the community's rights to be engaged are not clearly spelt out. Local communities do care about the services they receive (as any local authority who has ever tried to close or transfer a small water scheme, or change library opening hours will tell you). They are especially sensitive to a loss of responsiveness to local concerns, something that no amount of accountability documents will overcome.

It is relatively clear that the Commission is expected to consult at some point during the process. The proposed new clause eight of Schedule Three refers to the key stakeholders and the opportunity they will be given to engage with the plan, and how and when members of the public will be consulted.¹⁵ However it is unclear what process the Commission would be expected to follow when consulting. The Commission will be making decisions that will have a major impact, as a result public feedback may shape the Commission's conclusions.

The consultation requirements in the current Act appear to be modelled on the special consultative procedure that local authorities use for major decisions. This may be appropriate for the smaller range of more significant reorganisation options that are available to the Commission. More formal processes may not be as appropriate to some of the less impactful reorganisations, such as a minor transfer.

We submit that there is another option available. Section 82 of the principal Act sets out a series of principles of consultation, these include principles such as:

- *that persons who will or may be affected by, or have an interest in, the decision or matter should be encouraged by the local authority to present their views to the local authority*

¹⁵ It is interesting to note that the drafters of this Bill did not see the public as a key stakeholder.

- *that persons who are invited or encouraged to present their views to the local authority should be given clear information by the local authority concerning the purpose of the consultation and the scope of the decisions to be taken following the consideration of views presented*
- *that persons who wish to have their views on the decision or matter considered by the local authority should be provided by the local authority with a reasonable opportunity to present those views to the local authority in a manner and format that is appropriate to the preferences and needs of those persons.*¹⁶

Most local authority decisions made under the Local Government Act now follow consultation in accordance with the principles of section 82. This test allows local authorities the flexibility to develop processes that are proportional to the decision and the time and circumstances in which they are made. We submit that placing the Commission under a duty to consult in this way would achieve a similar result.

SOLGM notes the amendment of the poll provisions to make the conduct of polls mandatory in cases where the Commission is proposing changes to political structures; to make a major transfer of water, transport or RMA functions between local authorities. These seem to (correctly) reflect either:

- a practical realisation that changes to political structures would almost always go to a poll; or
- a policy decision such as major transfers of some functions likely to be a matter of significant community concern.

As written the proposed new clause 23, Schedule Three does not include the Commission's proposals to establish CCOs. That is, establishment of say a regional water or transport CCO is not required to go to a poll.

We submit that no case has been made in the Cabinet paper or regulatory impact statement to justify why the establishment of CCOs sits outside the democratic right to determine what is best at a local level. It is also unclear to us what the practical difference between a transfer of roads, water or RMA to another local authority (which requires a poll) and what is effectively a transfer to a CCO (where no poll is required). In circumstances where all affected local authorities agree with the proposal it is probable that a poll would succeed, in which case a poll might then be unnecessary.

¹⁶ Section 82(1), Local Government Act 2002.

Recommendation

That the Committee:

- 9. agree that the Commission be required to consult during the reorganisation process using a process or processes in accordance with section 82 of the Local Government Act**
- 10. agree that the proposed new subclause 23(1)(e), Schedule Three be amended by adding the words “local authority or to a council controlled organisation” after the word “another”. This amendment would require polls for transfers of transport services, water services and RMA to CCOs (subject to the amendment in recommendation 11 below)**
- 11. agree that the proposed new clause 23, Schedule Three be amended by adding a clause that reads “*Despite subclause 1(e) a reorganisation that has the support of all affected local authorities need not proceed to a poll*” or similar**

Time limits on reorganisations

The Bill appears to propose a repeal of the present clause four, Schedule Three of the principal Act. This clause prohibits what the Bill would refer to as reorganisation initiatives and investigation requests where a local authority has been the subject of a reorganisation and the scheme contains a time limit on new initiatives.

However we submit that some protection is still needed. Even unsuccessful reorganisation initiatives are unsettling for those involved ‘on the ground’. We suggest that continual reorganisation can impact on organisational morale, retention of staff, community perception of the value of democracy and the like. It is not obvious to us that undermining any of these will promote quality service.

We also observe that any organisational change takes time to successfully implement and ‘bed in’. Systems and culture need to be developed, often from scratch. That is to say, that the full benefits of a reorganisation can take some time to materialise.

We would agree that the clause four of the principal Act does not sit well with the wider range of reorganisation proposals that the Commission may make. For example, the prohibition would prevent the Commission from investigating a transport services CCO in one year, and a water services CCO in the next. We submit that clause four, Schedule Three of the principal Act needs to be retained with rewording to reflect the wider range of reorganisation proposals. We would be happy to work with officials to develop appropriate wording.

We also recommend that the list of factors that the Commission has regard to when receiving an application should be extended to require it to have regard to the time elapsed since the last investigation of the same or substantially similar nature. This might also refer to any changes in circumstances since the last investigation.

Recommendations

That the Committee:

- 12. agree that clause four, Schedule Three of the principal Act be retained with amendments to provide for the wider scope of reorganisation.**
- 13. agree that the proposed new clause seven, Schedule Three be amended by adding a new subclause (b) that would read “the time elapsed since the last investigation of the same, or substantially similar nature, and any relevant changes in circumstance in the intervening period”.**

Transfer of assets and liabilities

It has been far from clear whether the Government intended that the water assets would transfer to the CCOs.

Officials have advised that the intended water services CCOs would be asset-owning rather than asset-managing. We assume this is the position where the Commission investigates other opportunities.

Our reason for raising this issue is to note that a transfer of assets that is not undertaken with proper consideration of all the implications could place some local authorities at risk. For example, most local authorities have borrowed to fund their capital expenditures on roads and water. Transferring assets, and not the debt that funded those assets, could potentially leave local authorities with debt levels that sit beyond prudential limits when compared to revenues.

We do not consider that the matter is as simple as holding debt incurred to build a water scheme within a council to later transfer to the CCO in question. Ever since the abolition of loan polls in 1996 local authorities have moved to corporate borrowing practices, that is to say that councils borrow to finance a balance sheet as opposed to borrowing and managing in jam jars.

This 'cuts both ways' in that transferring too much debt to a CCO might equally 'hobble' a CCO before it begins.

The proposed new clause 11 of Schedule Three sets out a series of objectives that the Commission must consider when undertaking an investigation, with clause 12 providing a similar role with respect to reorganisation proposals. We suspect that this matter is something that should be more appropriately considered at the reorganisation plan stage, and therefore sits within the ambit of subclause 12(2). Yet consideration of this matter does not seem to be adequately captured within the scope of section 12(2). The impact of a transfer of assets and debt is better described as an implication.

Recommendations

- 14. That the Committee agree that the proposed new subclause 12(2), Schedule Three be amended by adding the phrase, "*and the financial and service implications*".**

Local Government Commission

Much of the proposed new sections 31B to 31H relate to the reestablishment of the Local Government Commission as a largely separate entity. These provisions are largely mechanical, and relatively standard for Crown entities.

Ministerial Expectations

The proposed new section 31A provides the Minister with powers to set expectations for the Commission. These include powers to specify:

- a. issues, problems or opportunities that the Commission must regard as having high priority for investigation
- b. geographic areas that the Commission must regard as having high priority for investigation
- c. geographic areas that the Commission must not investigate.

We have no concerns about the first of these powers, as any government will have particular issues or concerns of a policy nature. This seems to provide a power for the Minister to state any particular concerns as a priority, for example a particular Minister might want to focus on improving transport services or the delivery of RMA functions.

We are more concerned about the second, and particularly the third. This power might simply be used to direct the Commission not to give priority to areas that have recently been the subject of an investigation. However there is potential that these powers might be used to investigate a particular area, or not investigate another area for political motives.

We submit that this power is too broadly drawn. We would be more comfortable if the proposed sections 31A(2)(b) and 31A(2)(c) were deleted altogether. An alternative (second best) solution would be to delete the proposed section 31A(2)(c) or amend it to permit the Minister to require the Commission to assign investigations in some geographic areas with a lower priority.

Where these powers are used, they should be used transparently. As currently worded, these powers come with no obligation to consult anyone (section 31A(3) says only that the Minister may consult anyone he or she feels it appropriate to). Similarly there is no expectation that a communication given under this section would be notified, although such a communication would be discoverable under the Official Information Act.

We would expect that as a minimum the Minister would be required to consult:

- the Commission
- the local government sector, through its representative organisation Local Government New Zealand and

- any other Minister who is likely to be interested in, or whose responsibilities might be affected by the Minister's proposed expectations.

The current section 31A requires the Commission to publish any statement of expectations on its website. This provision has not carried through into the proposed new section 31A. Transparent publication of any expectations is an important check on overtly political use of this power – we can therefore see no obvious rationale for removal of an obligation to publish. This might, for example, form part of a statement of intent or work programme.

Recommendations

That the Committee:

- 15. agree that the proposed new subsections 31A(2)(b) and subsections 31A(2)(c) be deleted**
- 16. agree that the proposed new subsections 31A(3) be amended to require the Minister to consult the Commissions, the Local Government Association of New Zealand Incorporated¹⁷, and any interested or affected Ministers**
- 17. agree that the Commission be required to publish any statements of Ministerial expectations as part of its statement of intent.**

Membership

We support the proposed amendment to allow for the appointment of up to two further Commissioners. There are times when the Commission has particularly high workloads and this is a sensible mechanism for managing workload, and ensuring the operation of the Commission is not unduly hindered by the sudden lack of availability of a Commissioner.

There is no requirement on a Government to appoint or even consider people with a background in local governance, the management or delivery of local services or infrastructural management and delivery. Although past practice has always been that at least one member of the Commission to have been a former Mayor or Chairperson of a local authority, and often two, this needs to continue.

We submit that there should be a requirement to appoint at least one person who has served as a member of a local authority. Experience and pragmatism count.

Alternatively, the Minister should be placed under a requirement to consult with the sector in making appointments to the Committee.

¹⁷ This is the legal name of the organisation currently trading as Local Government New Zealand, and is the name used elsewhere in legislation (such as the Rating Valuations Act 1998).

Recommendations

That the Committee:

- 18. agree that a new subsection 33(2A) be added to the Bill requiring that at least one member must have served as a member or Chief Executive of a local authority**
- 19. agree that the proposed new subsections 33(2A) be amended to require the Minister to consult the Local Government Association of New Zealand Incorporated before making an appointment to the Local Government Commission.**

Disputes

SOLGM notes the provisions that empower the Commission to resolve disputes where authorised in the Bill, and where one or more of the parties to the dispute refer the matter to the Commission. This is an important backstop, especially in the establishment phases of CCOs when shareholders are more likely to have disputes over matters such as initial shareholding. We also note that the Commission will have powers to recover the costs of the dispute resolution process, and may apportion recovery based on the merits of the initial positions of the parties. This should act as a disincentive to push for untenable positions.

We have two issues with regard to the disputes provision. Local authorities are required to send the Commission all information that is relevant to the matter. This information is explicitly removed from the scope of the Official Information Act 1982 until the dispute has completed the resolution process. This is appropriate – but covers the information only at the point that it arrives in the Commission. There may be information created in the course of the local authority's supply of the information. Is there merit in extending the protection to information provided in the physical supply of information by the local authority?

Secondly, the proposed new subsections 31H(4) and (5) each contain references to giving notice to the Mayor and Chief Executive of each party with regards to the dispute. The concept is fine, but as worded these provisions do not recognise that regional councils may be a party to this dispute. These may be common circumstances, for example if a dispute involved a transport services CCO that was taking on passenger transport or transport planning activity, an economic development CCO or some of the shared services CCOs.

Recommendations

That the Committee:

- 20. agree to extend protection under official information law to include information about a dispute that is supplied to the Commission and**
- 21. agree that the proposed new subsections 31H(4) and (5) be amended by adding the words “ or Chair of a Regional Council, ...” after the word Mayor.**

Bylaws

SOLGM considers that the bylaw provisions in this Bill are complex, inconsistent between the different types of CCO and therefore carry with them the potential to inadvertently create issues similar to the traffic issue Parliament validated last year. Powers to regulate should be clear and consistent as circumstance allows. We are uncertain that the differences between water and transport services CCOs are always warranted.

SOLGM notes and agrees with comments in the Cabinet papers to the effect that *“extending bylaw-making powers to CCOs would be ‘without precedent and unlikely to be justified. It is appropriate that this power and the power to appoint enforcement officers are exercised by fully democratically accountable governing bodies (i.e. parent councils and are separated from operational entities for constitutional reasons and to provide checks and balances).”*¹⁸ Joint Committees for a Water CCO

The proposed new section 56J of the Bill requires the shareholders in a water CCO to create a joint committee (in essence a bylaw committee) and delegate that joint committee the responsibility to appoint and ‘warrant’ enforcement officers and commence enforcement actions. In practice, this requirement will mean that what was meant to be an empowering provision around the establishment of a joint committee of shareholders (as per the new section 56W) becomes mandatory.

It is unclear to us whether the creation of a joint committee specifically to oversee bylaws is necessary. The relevant provision in the Local Government (Auckland Council) Act requires the Auckland Council to appoint enforcement officers to enforce compliance with bylaws, and requires the Council to consult Watercare to ensure sufficient officers are appointed.

We accept that this result is easier to achieve for a CCO that has but a single shareholder. In all honesty the water bylaw powers are largely about asset protection and the unauthorised taking or misuse of the water supply. It is not the interests of the asset owner or the general public for people to take the regulation and exercise of these powers seriously, after all it's the public health at risk.

Recommendation

- 22. That the Committee agree that the proposed new section 56J be removed from the Bill.**

¹⁸ Minister of Local Government (2016), *Local Government – Better Local Services Reforms*, paper to the Cabinet Economic Growth and Infrastructure Committee, page 38.

Bylaw Powers for Transport CCOs

It appears that this Bill provides the Commission with fairly extensive powers to transfer bylaw-making powers from local authorities to transport services CCOs. It appears in most instances the power to set and enforce the bylaw rests with the CCO. We invite the Committee to reflect on the incongruity between the Cabinet paper comments about the inappropriateness of transferring powers to make and enforce local legislation to bodies that are not democratically elected and what the Bill proposes with respect to the transport services CCOs. We cannot find any particular rationale that would see a joint committee required for bylaw and enforcement powers in water but not in roads.

CCO Accountability Documents

SOLGM would like to note the importance of strategic thinking for local authorities. Within the LGA, local authorities make strategic decisions through their service delivery plans, infrastructure strategy, financial strategy and long-term plan with a high level of community engagement through a consultation document. The integration of all of these elements is vital for the creation of a strategic and forward-thinking community that will meet “current and future needs.” This responsibility is currently vested with local authorities. Through these key elements local authorities make considerations and trade-offs to optimise efficiency and effectiveness of service delivery looking at timeframes of 10 years, 30 years, with some local authorities choosing to look beyond at 100 years in the future.¹⁹

SOLGM therefore generally supports the new accountability provisions that apply to substantive CCOs. The amendments we propose here are generally of a technical and practical nature.

Service Delivery Plans

SOLGM supports the requirement that substantive CCOs prepare a service delivery plan. This document is, broadly speaking, the equivalent of a long-term plan in a local authority. These documents, and the infrastructure strategy, provide the CCO with a strategic direction, ensure integration with the parent local authorities own strategic direction, and generally provide for sustainability of service.

We have two concerns with the provisions as currently worded. The first lies in the content. The proposed new section 56C(2) generally replicates the relevant parts of schedule 10 of the Act.

We think the wording of this section could be improved. Some aspects of the drafting appear unduly vague. The formulation in subsection (a) “how the organisation intends to ...” has been used elsewhere in the Local Government Act and has generally caused confusion. Similarly the use of the term “environmental factors” could easily be interpreted as a reference to the physical or natural environment. We suspect that the Government’s intent was that a service delivery plan includes the following:

- (i) the shareholders’ objectives and how the organisation contributes to the achievement of these objectives
- (ii) the intended levels of service
- (iii) programmes of capital expenditure and maintenance necessary to achieve the intended levels of service
- (iv) demographic, economic and other factors that give rise to the need for expenditure (Note: this formulation draws loosely on similar provisions in section 101A of the principal Act).

¹⁹ Waimakariri Infrastructure Strategy 2015-2115.

The second concern we have in this area is that there is no obvious process through which the CCO engages with the shareholding local authorities on the content of a service delivery plan. The proposed new section 56E provides that the plan cannot be adopted without the shareholder's approval, but the process of working with shareholding councils should begin well before this point. A provision similar to this for statements of intent should be required (we direct the Committee's attention to clauses 2 to 4 of the present Schedule 8 as the model).

Recommendations

That the committee:

- 23. agree that the proposed new section 56C(2) be deleted and replaced with "the service delivery plan must set out:**
 - (i) the shareholders' objectives and how the organisation contributes to the achievement of these objectives**
 - (ii) the intended levels of service**
 - (iii) programmes of capital expenditure and maintenance necessary to achieve the intended levels of service**
 - (iv) demographic, economic and other factors that give rise to the need for expenditure."**
- 24. agree that substantive CCOs be required to seek and consider shareholder comments while preparing a service delivery plan.**

Infrastructure Strategies for CCOs

SOLGM supports the requirements that transport services and water services CCOs should have an infrastructure strategy in place, and notes that other substantive CCOs may be required to have a strategy. The strategy reconciles the long-term economic, demographic and environmental influences with asset needs and realities. SOLGM therefore regards the infrastructure strategy as critical to long-term planning and good asset management.

Parent local authorities prepared their first infrastructure strategies as part of the 2015 long-term plans. On the other hand, the infrastructure strategy for a CCO is a separate document. While this might be acceptable in the transition we consider that the infrastructure strategy and the service delivery plan must align and that the best means for doing this is to ensure they form part of the service delivery plan.

Section 101B(6) lists assets that are regarded as infrastructure assets for the purpose of an infrastructure strategy. This includes three waters infrastructure, roads and footpaths and flood protection and river control, and anything else a local authority decides to include. The issue is that

section 101B(6) appears not to apply to infrastructure strategies for CCOs. This is more of an issue for a substantive CCO that is not a transport or water services CCO, and may discourage local authorities from asking other substantive CCOs to adopt an infrastructure strategy. We suspect that the Government would want to encourage local authorities and their CCOs to adopt infrastructure strategies.

And finally, we note that a CCO infrastructure strategy is prepared under the same requirements to consult with shareholders as the service delivery plan. We recommend this in a similar way.

Recommendation

That the Committee:

- 25. agree that CCO infrastructure strategies after the transitional should be adopted as part of the CCO's service delivery plan**
- 26. agree that the proposed new 56D(3) be amended by deleting the phrase "Subsections (3) and (4)" and replacing it with "Subsections (3), (4) and (6) ...".**
- 27. agree that substantive CCOs be required to seek and consider shareholder comments while preparing an infrastructure strategy.**

Shareholder Committees

Section 56W requires shareholding local authorities to form a shareholder committee to “collectively manage the interests in performing or exercising their responsibilities powers and duties as shareholders of the council controlled organisation”. SOLGM can see the advantages of this approach as a means of providing some streamlining of processes and generating unification for approving the documents set out in section 56W(3).

Exemption

Local authorities do not need to form shareholder committees if each of the shareholding local authorities resolves to separately perform its duties as a shareholder.

We interpret the use of the term ‘each’ in this context to mean that all the shareholding local authorities have to resolve in this way, or the committee, even one dissent means the shareholder committee must be established. The Select Committee might clarify that this is the intent. Given the intent of a shareholder committee is to streamline and unify the approval processes, a high threshold is justified.

Recommendation

28. That the Committee agree to replace the term ‘each’ with the term ‘all individually’.

Unanimity

Section 56W(4) requires that in circumstances where shareholding local authorities resolve to exercise their shareholders duties individually then the obligations of sections 56W(3) can only be resolved by unanimous agreement. Some of the new CCOs might be extremely large entities, with numerous shareholding local authorities. Although this provision is intended to safeguard the interests of smaller communities, it will mean in practice that each of the documents required under section 56W(3) may sacrifice direction and specificity in the name of compromise. These are important documents, if a service delivery plan or infrastructure strategy is vague, full of pet projects to gain unanimous support etc., there is some possibility that the CCO’s ability to generate a successful outcome may be compromised. We submit that adoption of these documents should require support of a significant majority of the shareholders (however measured) as opposed to unanimity.

Recommendation

- 29. That the Committee agree to delete the term 'unanimous agreement' in section 56W(4) and replace with '*by resolution of two-thirds of the shareholding authorities*'.**

Committee Membership

We have been advised of a potential disconnect between the provisions for a joint shareholder committee and the present section 41A. We believe this to be an unintended consequence as opposed to a drafting error.

Section 41A establishes that a Mayor is a full member of all council committees and subcommittees. This appears to extend to the shareholder committees that are established under the proposed new section 56W of this Bill. So for example, a multiply owned CCO in Canterbury would have a least ten members (all of whom would be Mayors).

There may be an issue with quorums. Theoretically if, for example, each council out of ten councils appoints its Mayor to the Committee there is no issue, although we are unsure that policy makers contemplated this possibility. The quorum in this scenario would be six. But for each council a Mayor may not be available at all times, therefore another representative from that council would be required as a member and the committee increases by one. So if each council in our example appoints another representative as a member to the joint committee there would be twenty people on the shareholder committee and consequently the quorum would increase to eleven.

We do not believe this was intentional, and submit that this needs to be clarified. The proposed amendment to s41A below achieves this without disturbing other arrangements that may be in place.

Recommendation

- 30. That the Committee agree that section 41A(5) be amended by adding the phrase "*other than a joint shareholders committee established under section 56W of this Act*".**

Distribution of Surpluses

SOLGM notes that water services CCOs are expressly prohibited from distributing a surplus to any of its shareholders. The Cabinet paper suggests that this restriction is to 'head off' potential community opposition to the changes and undue complications to negotiations around Treaty claims.

SOLGM agrees that both these concerns have validity. For example, in 2006 and 2007 this Committee considered two petitions from Auckland ratepayers over a 'charitable payment' that Metrowater (then an Auckland City Council subsidiary) made to Auckland Council.

However, we are also unclear why this same rationale has not been equally applied to the proposed transport services CCOs. Public concern about any charging for road use is likely to be of equal concern – especially when recovered via coercive taxes such as fuel excise and road user charges.²⁰ Freedom of movement may not rank quite as highly as water, but is still one of the basic freedoms of New Zealanders. Equally it is unclear to us why a company with a power to charge and a power to distribute to shareholders might not attract interest of some parties during Treaty settlement negotiations.

We are also unclear whether some common local government policies and practices would be regarded as a payment for the purposes of this clause. The Committee and officials should consider and clarify the ambit of clause 56H(a), including whether this will extend to the ability of a water services council-controlled organisation to:

- provide discounts to any owner or shareholder
- provide rebates to any owner or shareholder
- make subvention payments to shareholders or
- accept or receive tax loss offsets from its shareholders.

Recommendation

- 31. That the Committee agree to add a provision prohibiting transport services CCO from distributing a surplus to shareholders.**

²⁰ Those with longer memories may recall the so-called Better Transport, Better Roads reform package of the late 1990s. Concern regarding the control that profit-oriented road companies might have over pricing decisions were prevalent, and ultimately one of the reasons this package did not proceed.

Development Contributions Policies

Development contributions policies are not standalone documents. Setting development contributions is an important policy choice for local authorities. Some local authorities have 'growth pays for growth' policies and make the maximum use possible under law, some local authorities choose to incentivise growth by not charging interest, some smaller local authorities have no development contributions at all. There will be tensions between substantive CCOs that have the interests of the CCO as their primary driver, and the shareholding councils that may have wider policy considerations.

Development contributions are one of the outputs of a funding policy process set out in section 101(3). In that process local authorities are required to consider and expose the following for each activity:

- the community outcomes
- who the beneficiaries of the activity are
- when benefits accrue
- whether there are any exacerbators²¹ and
- the costs and benefits of funding the activity separately.

These policies are subject to public consultation. Although a development contributions policy also has to explain why development contributions are being used, with reference to the above, these policies do not need to (and usually do not) refer to other sources. Our point is that the judgements a CCO board might make in this area will effectively override the policy judgements of local authorities in a number of ways.

We are therefore unclear that an unelected board of a CCO should be able to simply "require" a local authority to amend its development contributions policy, and without a direct requirement to consult the affected local authorities. This should be a matter for agreement between the shareholding local authorities and the board of the CCO, possibly as part of the funding components of a service delivery plan or statement of intent. In the event that a dispute arises this might then be treated as a matter for the Commission to resolve under the proposed new section 31H.

The Bill requires the administering local authority to pay all development contributions to the CCO, less the reasonable cost of administering the policy. This raises a number of questions of a second order nature – for example would the cost of hearing an objection to a water services related part of a development contributions policy be an administrative cost. There is another issue of a fundamental nature – which is that an administrative cost cannot be regarded in any way as a capital

²¹ An exacerbator is an individual or group whose action or inaction creates a need for expenditure. This consideration is often used as a part justification of a development contributions policy in that a development adds to existing demand that might require a capacity extension.

cost due to growth. The practical effect of this is that any attempt to recover this cost through a development contribution would be ultra vires. We submit that the Committee needs to make amendments to all references to 'capital expenditure' in the part of the principal Act that empowers assessment of development contributions to add in the administrative costs of the policy.²²

Development contributions provisions come with:

- the right to request reconsideration
- rights of objection
- the potential for developers to enter into agreements for the private provision of infrastructure and
- rights to a refund in some circumstances.

Most of these provisions are worded in such a way that the obligation to undertake the work, or make the decision rests with the local authority. That is to say the policy is the local authority's. For example, it is the local authority's job to reconsider a development contribution or arrange for the hearing of an objection (including paying the people who hear it and providing free administration support). The development contributions provisions are written from the perspective of a two party relationship, which does not sit well with what really is a three-way relationship. We suspect that there are a large number of consequential amendments required including the addition of "or council controlled organisation" to subpart five, part eight of the principal Act.

Recommendations

That the Committee

- 32. agree that substantive CCOs and their shareholding local authorities should agree on the contents of amendments to development contributions policies and**
- 33. agree that disputes between substantive CCOs and their shareholding local authorities regarding the content of any proposed amendments should be resolved by the Local Government Commission under the proposed new section 31H**
- 34. agree that subpart five of part eight of the principal Act be reviewed to ensure that recovery of the costs of administering the policy can be legitimately recovered via development contributions**
- 35. agree that subpart five of part eight of the principal Act be reviewed to ensure that the provisions now reflect what has become a three way relationship between the developer, the local authority and the CCO.**

²² For example, the purpose of development contributions in section 197AA of the principal Act, the principles of development contributions in section 197AB of the principal Act, and section 199 of the Act. There may be other references of this nature.

Taxation Matters

Note: SOLGM gratefully acknowledges and thanks PwC for their assistance with these aspects of our submission.

The taxation laws that apply to local authorities are complex and unusual. The taxation rules applicable to local authorities are complex and unusual in the New Zealand context. Local authorities are only subject to income tax on certain streams of income from CCOs (as specifically defined for tax purposes). Rules in relation to other taxes, such as GST, follow general principles with certain specific taxes rules being applicable to specific local authority related matters (e.g. rates, resource consents etc.).

The tax rules that apply to CCOs follow usual relevant tax rules (e.g. partnership tax rules apply if the CCO is a partnership). The historical context to the current tax rules as they apply to CCOs and local authorities is largely to ensure that commercial activities that are carried out externally from local authorities and which compete with private sector enterprises do not receive a tax advantage.

Because of the peculiarity of the rules applicable to local authorities, it is important that ambiguities are eliminated where possible, and the scheme and purpose of the tax legislation is maintained. Furthermore, it is also imperative that the relevant tax legislation is easy to identify and interpret.

The relevant Cabinet decision determined that the establishment of CCOs would be tax neutral. We support this policy objective but are not certain that the Bill as presently drafted achieves this.

Tax Status of Multiply Owned or Substantive CCOs

Section 11A of Local Government Act 2002 (LGA 2002) establishes that local authorities must consider the contribution that a group of "core services" make to the community. These include:

- (a) network infrastructure:*
- (b) public transport services:*
- (c) solid waste collection and disposal:*
- (d) the avoidance or mitigation of natural hazards:*
- (e) libraries, museums, reserves, and other recreational facilities and community amenities.*

The Local Government Act 2002 Amendment Bill (No 2) aims to enable local authorities to work together to deliver these services in a more efficient and collaborative manner through more flexible reorganisation.

However, any reorganisation that results in local authority activities being transferred to a CCO mean that these activities will become subject to income tax at the CCO level, as will any income

received by a local authority from a CCO. We agree that CCOs that are competing with the private sector, or are providing a service where private sector provision is possible should be paying tax.

However many of the CCOs that this Bill would create will not be competing with the private sector, often because a private provider would lack regulatory authority.

We submit that a CCO should be subject to the same tax rules *as a local authority* where:

- the reorganisation involves the establishment of a CCO which is wholly owned by a local authority or local authorities; and
- the activities are core services of a local authority (as defined by section 11A); and
- the re-organisation involves the delegation or transference of local authority powers and/or core services; and
- the CCO is unlikely to compete with private sector enterprise, or a private sector enterprise is prohibited from providing the services as it does not have the regulatory authority to do so.

There is already tax precedent in this area. We refer to the New Zealand Local Government Funding Authority and Auckland Transport, which are both included within the definition of a “local authority” in Section YA 1 of Income Tax Act 2007 (“ITA 2007”).²³

We further note that this outcome could possibly be achieved by including “a substantive council-controlled organisation” and a “multiply owned council-controlled organisation” within the definition of a “local authority” in section YA 1 of ITA 2007.

Recommendation

- 36. That the Select Committee agree that CCOs established under a reorganisations and that are wholly owned by local authorities, provide core services, and do not compete or are unlikely to compete with private sector enterprises should be subject to the same tax treatment as a local authority.**

²³ We note that that the commercial port related commercial undertakings of Auckland Transport remain subject to income tax.

Water Services Council-Controlled Organisation

As alluded to above, it appears that a water services council-controlled organisation will be subject to income tax if it is a company or an “entity” that has a profit purpose (i.e. it is a CCTO).

Due to the proposed prohibition on water services council-controlled organisations being able to pay a dividend or distribute any surplus to any owner or shareholder then any profits will be subject to income tax wholly within the water services council-controlled organisation. An exception to this would be where a water services council-controlled organisation operates through a limited partnership, in which case the profits/surpluses of the limited partnership are “allocated” to the partners rather than “distributed”.

It would appear that the proposed amendments would not preclude subvention payments being made to other loss making entities within the group provided the required shareholding thresholds are maintained (i.e. 66%). However, this may not be available to multiply owned council-controlled organisations particularly where new shareholders are added over time. This potentially creates an inequity between similar entities.²⁴

Further, it is possible that water services council-controlled organisations could operate through a limited partnership structure.

Recommendation

- 37. That the Select Committee agree that water services CCOs should be exempt from income tax. This could be achieved by defining a water services CCO as a “local authority” in section YA1 of the ITA 2007**
- 38. That the Select Committee confirm that the prohibition on water services CCOs distributing surpluses is akin to not operating with the purpose of making a profit.**
- 39. That the Select Committee clarify the ambit of clause 56H(a) including whether this extends to the ability of a water-services CCO to provide discounts or rebates to any owner or shareholder; make subvention payments to shareholders (in the event they are not income tax exempt) or accept/receive tax loss offsets from shareholders (in the event they are not income tax exempt).**

²⁴ Also, potentially between shareholding local authorities; for example, if one local authority has a 70% shareholding interest, and others only minority shareholdings, the majority shareholder can potentially obtain a tax benefit.

Transport Services Council-Controlled Organisation

As alluded to above, it appears that a transport services council-controlled organisation will be subject to income tax if it is a company or an “entity” that has a profit purpose (i.e. it is a CCTO). We note that this differs to the tax treatment of Auckland Transport which is defined as a local authority for the purposes of the ITA 2007.

If the Committee accepts our earlier recommendation that transport CCOs be similarly prohibited from distributing surpluses then the same treatment would apply.

Recommendation

- 40. That the Select Committee agree that transport services CCOs should be exempt from income tax. This could be achieved by defining a transport services CCO as a “local authority” in section YA1 of the ITA 2007.**

Structure of Local Government related tax rules

The rules in Schedule Three of the Bill will apply when there is a reorganisation under proposed section 24 of LGA 2002 (which can include the transfer of assets and liabilities from a “transferring entity” to a “receiving entity”). However, we note that pre-existing tax rules applicable to the transfers of undertakings to CCOs already exist within Schedule Nine of the Principal Act.

The two do not always cohere, for example, the non-application of sections CB6 to CB23 of ITA 2007 following a re-organisation. We consider that the officials should be directed to review Schedule Nine of the Principal Act to determine whether these should be replicated in Schedule Three of the Bill or consolidated to provide one definitive set of tax rules.

See the following for our comments on GST matters.

Recommendation

- 41. That the Select Committee agree that officials be directed to review the Schedule Three provisions against Schedule Nine of the principal Act.**

Schedule Three – General Tax Rules

Schedule 3 sets out *general* rules which will apply for the purposes of the Inland Revenue Acts when a reorganisation under proposed Section 24 of LGA 2002 takes place. These general rules (set out at proposed clause 56) state:

General treatment

- (1) A receiving entity is treated from the date of transfer as if they were the same person as the transferring entity.*
- (2) A thing done by a transferring entity before the date of transfer is treated as if it had been done by the receiving entity on the date on which it was done by the transferring entity.*
- (3) A receiving entity is treated as having held the voting interests and market value interests without interruption from the date on which the transferring entity acquired them.*

It appears to us that the breadth of these general rules could extend beyond what is intended. For example, where a transferring entity transfers some of its assets to a receiving entity (of which it may be a partial owner), an action done by the transferring entity before the date of transfer will be treated as if it were done by the receiving entity.

So, actions resulting in a loss of “good behaviour record” with Inland Revenue, for instance, will be considered to have been done by the receiving entity; as will any other matter covered by the Inland Revenue Acts (e.g. unrelated binding ruling applications, employment related matters etc.)

Recommendation

- 42. That the Select Committee agree that the ambit of the General Rules be restricted to matters associated with assets, liabilities or voting/market interests referred to in proposed clause 55 (1) of Schedule 3.**

Clause 57 Income and Expenditure

The proposed clause 57 is ambiguous as it seeks to specify that income and *expenditure* incurred by a transferring entity before the date of transfer does not become that of the receiving entity simply because of the transfer of assets and liabilities. However we understand the tax losses arising from this same income and expenditure can become the tax losses of the receiving entity under proposed clause 59 (c). Explicit confirmation of this understanding would be appropriate.

In addition *expenditure* on financial arrangements, depreciable property, trading stock etc. are dealt with elsewhere. As a matter of clarity we recommend that references in this clause to “expenditure” be replaced with “expenses”.

Recommendation

- 43. That the Select Committee agree that all references to “expenditure” in Clause 57 be replaced by the term “expenses.”**

Clause 58 Transfer Values

We note that proposed clause 58(2) deals with items establishing the transfer values of “depreciable property.” As a matter of clarity, we assume the definition contained in YA 1 of ITA 2007 applies:

Depreciable property is property that, in normal circumstances, might reasonably be expected to decline in value while it is used or available for use—

(a) in deriving assessable income; or

(b) in carrying on a business for the purpose of deriving assessable income.

Subsections (2) to (4) expand on this subsection.

This means that property which is currently used for deriving exempt income can still meet the definition of “depreciable property.”

More specifically, proposed clause 58(2)(a) specifies that where such depreciable property is transferred to a receiving entity and will not be used for deriving exempt income then the transfer occurs on the transfer date at *accounting carrying value* on that date.

We submit that the transfer value in this circumstance should be the *market value*. It is our understanding that this would be consistent with section EE 58(1) of Income Tax Act 2007, which specifically deals with the situation where a person uses depreciable assets for the first time. This is particularly the case where the scheme of Schedule 3 is to assume the transferring entity and receiving entity are to be treated as if they were the same person. The Select Committee should seek officials’ advice on this matter.

Recommendation

- 44. That the Select Committee agree to seek further advice as to whether transfer values for the purposes of clause 58 should be market values.**

Clause 59 – Continuity

It is possible that only a part of the operations of a transferring entity is transferred to a receiving entity. In this instance, it is possible that only a portion of a tax loss, loss balance or imputation credit balance should be available to the receiving entity.

Recommendation

- 45. We submit that the Committee consider whether an apportionment of losses and/or imputation credits may be required and determine a mechanism to achieve this.**

Clause 60 - Goods and services tax

The intent of clause 60(2) is unclear and at the very least requires a minor amendment.

Recommendation

- 46. That the Select Committee agree that Clause 60 should be clarified. In the event that the Committee determines that no such clarification is required, it should be amended so as to insert “output” prior to “tax payable”.**

Tax implications and reorganisation plans

As alluded to above, reorganisations under proposed Section 24 of LGA 2002 can have far-reaching tax consequences. Even minor alterations in which agency holds what voting rights can have an unintended economic impact.

For example, this could be the case where a re-organisation takes place and results in a corporate multiply owned council-controlled organisation being established between two local authorities. Tax losses are made over the first 5 years of operation and carried forward. After 6 years, additional local authorities become shareholders of the company. This change in shareholding could compromise the ability of the tax losses to be carried forward.

Although the proposed new clause 11, Schedule Three requires that the Commission consider efficiencies and cost savings, it does not specifically place the Commission under a duty to consider other implications. Tax costs and other tax implications could be just one example of this – at the minimum we would expect that the Commission would take advice to ensure that unintended tax costs to ratepayers do not arise.

Recommendation

- 47. That the Select Committee agree that that clause 11, Schedule Three be amended to ensure that the Commission is required to ensure that the tax implications for ratepayers are identified in reorganisation plans, and that the reorganisation plans take steps to minimise the impact on ratepayers.**

Joint governance arrangements

The proposed Section 24 of LGA 2002 specifically contemplates the establishment committees/joint committees and the delegation of responsibilities, duties and powers thereto. In addition, a joint committee must be established:

- under proposed section 56J of LGA 2002 in respect of multiply owned water services council controlled organisations; and
- under proposed section 56W of LGA 2002 in respect of multiply owned substantive council controlled organisations.

Under section 6 of LGA 2002 a committee or joint committee of a council is specifically excluded from the definition of an “entity”. The ramification of this is that such a committee cannot fall within the definition of a Council Controlled Organisation for tax purposes.

However an “entity” does include “unions of interest” and “cooperation” or “similar arrangements”. Previous tax concerns have existed around the meaning and boundaries of these terms.

As a matter of clarity we submit that proposed schedule 3 specify that committees/joint committees established for the purposes of a schedule 24 reorganisation are exempt from income tax.

Recommendation

- 48. That the Select Committee agree that the proposed schedule there be amended to clarify that committees and joint committees established under a section 24 reorganisation be treated the same as local authorities for income tax purposes.**

Kiwisaver

There is a possible discrepancy in the treatment of employees moving to CCOs and Kiwisaver.

Recommendation

- 49. That the Select Committee consider whether clauses affecting the employment status of employees and the application of the Kiwisaver Act 2006 should be included within the new subpart 4, of Part Four of Schedule Three. We understand provisions similar to the present clauses 49 and 50 of Schedule Three of the principal Act would be useful.**

Rates Rebates Scheme

One of the lessons from the Auckland reorganisation is that CCO charges are not legally regarded as rates and are therefore excluded from the coverage of the Rates Rebate Scheme. In other words, a metered water charge levied under the Rating Act and payable to a council is covered by the scheme, the same charge levied by a CCO is not.

The practical effect of this is to reduce entitlements of low income ratepayers under the scheme. We understand that Auckland Council now 'tops up' the entitlement that eligible ratepayers receive from its own revenues.

We suggest that this may be an issue that creates opposition to reorganisation proposals, in and of itself. We were therefore unsurprised that paragraph 39 of the associated Cabinet paper appears to contemplate change to the scheme to ensure water and wastewater charges fall within the ambit of the scheme. We can find no such amendment in the legislation and suggest that one is needed.

Recommendation

- 50. That the Committee agree that water and wastewater charges levied by CCO should be included within the ambit of the Rates Rebate Scheme and amend the Bill accordingly.**

Regulation of Performance Measures

The Bill extends the powers of the Secretary to make regulations setting out mandatory performance measures into three areas. The first is that the Secretary must make regulations that set fiscal prudence benchmarks for CCOs. The second is to widen the net of 'corporate accountability' information that must be disclosed in an annual plan. And the third widens the range of functions that the Secretary can set mandatory measures of non-financial performance.

SOLGM agrees that comparing performance can provide local authorities and their communities with useful information. If approached with honesty of purpose and integrity of method, a well-designed, 'lean' comparison of performance can:

- identify leading practice
- provide ratepayers with information with which to compare the levels of service that they receive in return for the rates and charges they pay and
- provide signals about areas of focus (for example, the present regulations reflect a focus that two previous Ministers had on network infrastructure).

There are few local authorities that do not undertake some form of formal or informal performance comparison, even if it is only asking the neighbouring local authorities for their planned levels of rates increase. As we have seen, many are involved in various initiatives that have some comparative elements as an aide to performance improvement.

But there are two common (and key) elements to these initiatives. The first is that the initiatives have a focus on performance improvement – that is to say managing performance as opposed to merely measuring it. An over-reliance on measurement is one of the common missteps that many agencies make when they first start their performance improvement journey.

The second core element, and an absolute fundamental to the sector in all of this is that the accountability is to the local community, not to others. Much has been made of the systems of benchmarking and standards that have been set in District Health Boards and in education. Accountability to the centre should exist in these circumstances as the Crown has both a purchase interest and an ownership interest in DHBs. With local authorities the Crown has a far more limited purchase interest and no ownership interest at all.

Poorly designed systems for comparing performance remove the focus on learning, in a drive to manage to ones' 'position on the table'. That is to say those poor comparisons can focus local authorities on activity rather than results. They can even throttle the very innovation that the Government wants to promote by making local authorities averse to making change in fear that the position on the table might suffer.

Additional disclosures in accountability documents add cost in terms of the time to prepare them for disclosure in the document and the time and resource needed to collect them, and have them audited. We draw your attention to existing regulations around mandatory performance measurement. The so-called benchmarks of fiscal prudence, which include some measures that make for a meaningful comparison, currently take up five pages of an accountability document.²⁵

Territorial authorities currently report against as many as 17 measures under the existing regulations, in addition to reporting that is done under other legislation, for example resource consent processing times. We were therefore somewhat surprised that the regulatory impact statement that accompanies this Bill is almost silent on these aspects of the Bill (other than an oblique reference to CCO performance measurement).

Additional Performance Measures

The Bill provides the Minister with the power to direct the Secretary to make regulations adding new activities to the scope of the regulations or to review the effectiveness of existing regulations. Each of these is activated by a notice in the Gazette.

SOLGM has expressed concerns that the performance measures that are currently required under the authority of sections 259 and 261A are focus only on network infrastructure and therefore do not reflect the total ambit of local authority activity. This is particularly true for regional councils – which provide only one of the five groups of network infrastructure. We have also expressed concerns that some of the measures prescribed under the existing regulations are not customer-focussed, and provide perverse incentives. One of the criticisms that the sector levelled against the use of this data in the so-called snapshots was that so much of local government's core activity was not represented. A sensible discussion as to what other measures might provide such a picture is needed.

Good implementation guidance is essential. The Department must be properly resourced to develop this guidance, in conjunction with the sector. There must also be sufficient lead time for local authorities to develop systems for collecting information. Ideally local authorities should have at least eighteen months before the first public disclosure of information to put systems in place, and establish a baseline for reporting purposes. We submit that the Committee should

- (i) require the Secretary to issue implementation guidance within three months of making any rules under s261 and
- (ii) prohibit the Secretary from requiring public disclosure against any new groups of activity falling into any new rules made under s261 for at least eighteen months after the rules are made.

²⁵ Presentation of these is very tightly regulated. One of the authors of this submission has been contacted by a local authority that was advised by its auditor that it had to match the colours of graphics in this disclosure to the exact tone of the colours in the graphs in the regulation.

One final comment on this aspect of the Bill. We see that a Ministerial notice under the proposed new section 261B(2) is not a disallowable instrument for the purposes of the Legislation Act 2012. Disallowance motions are a little used tool, but the debate that supports them is a means through which Parliament holds the Executive to account for the exercise of Ministerial powers. Non-disallowance should be used sparingly. We are uncertain what the case for non-permitting disallowance is in this instance – especially when the regulations under section 261 are disallowable.

Recommendations

That the Committee:

- 51. agree that s261B of the principal Act be amended to require the Secretary to allow at least 18 months lead time on any new regulations made under s261**
- 52. agree to amend the principal Act by adding a new section that requires the Secretary to make implementation guidance with six months of making new regulations under s261B**
- 53. agree to amend references to disallowable instruments in clause 33 by removing the word “not” from line 31 and replacing the words “does not have to” in line 32 with the word “must”.**

Reviews of Effectiveness

The bill provides the Minister with the power to direct the Secretary to make regulations adding new activities to the scope of the regulations or to review the effectiveness of existing regulations.

We agree that it is appropriate that the Minister be able to direct a review of the effectiveness of these regulations at any time. However, we consider that there should be review of the effectiveness of the existing

- a) fiscal parameters and benchmarks
- b) reporting against measures set under the authority of section 261A.

SOLGM has expressed concerns about the relevance and usefulness of some of the measures that sit within the present regime. Some incentivise activity for activities sake – for example, one measure requires disclose of the percentage of the network that is resurfaced each year. Many are unclear. Some incorporate aspects that are wholly or partly beyond a local authority’s control – for example a local authority must disclose the number of flooding events (SOLGM is unaware that local authorities have responsibility for the weather).

SOLGM considers that a suitable legislative model exists in the, now spent, section 32 of the principal Act (which required the Commission to report on the operation of the Act). We would be happy to work with officials to develop and appropriate provision.

Recommendation

54. That the Committee agree to amend the principal Act by adding a requirement to review the effectiveness of existing regulations made under sections 259 and 261 of the principal Act before making new regulations.

Disclosure of Corporate Accountability Information

Clause 31 of the Bill prescribes the corporate accountability information that local authorities must disclose in any or all of their accountability documents. This is defined as “information relating to the corporate governance of the local authority and indicators of the overall effectiveness of the local authority in performing its role and includes the extent to which the local authority satisfies the expectations of citizens and customers”.

As presently drafted this power is excessively vague. We understand that the power to regulate the manner in which such information is presented would probably be regarded as incidental to this power.

We submit that authority to make delegated legislation should be clear, specific and limited and regard this as setting a bad precedent from a constitutional standpoint. The proposed new s259(1)(df) appears to give officials powers to regulate for matters that might be better in legislation.

In preparing this submission we referred back to the Cabinet paper to seek clarity around the type of information the Minister might use this power to incorporate. Beyond a reference to customer satisfaction information (which has made it into the definition), there was no other obvious reference to clarify how this power might be used.

We observe that the setting of a mandatory measure of citizen/customer satisfaction is deceptively simple. To achieve something comparable means a common methodology and common survey instrument, and to acquire information at the level of an individual local authority (say Carterton District Council) would require an extremely large sample size. To provide an idea of the size needed, the former Household Labour Force Survey had a sample size of around 15,000 households (about 30,000 individuals) and had some difficulties generating data of sufficient quality at a *regional* level. Be sure that the cost of generating this information is justified!

We draw the committee's attention to Schedule 10 of the Act, which specifies contents of the four accountability documents. The schedule runs to more than twenty pages of legislation. We submit that successive Parliaments have considered contents of these documents should be clearly and specifically set out in the primary legislation.

We commend this approach to the Committee.

Recommendation

55. That the Committee agree to amend clause 32 of the Bill by either deleting the proposed new section 259(d)(f) or deleting the term 'corporate accountability information' and replacing it with a list of the required information.

Fiscal Benchmarks for CCOs

The Bill provides the Minister with the power to establish parameters or benchmarks for assessing the financial management within CCOs. We understand that the intent is to make it easier for local authorities to detect potential issues with the financial performance of CCOs at an early point. While the governance of CCOs has been strengthened with the addition of shareholder councils and the advice that these bodies receive, these will support those doing the performance monitoring.

We do have one practical concern. These benchmarks apply to any substantive CCO. As we have seen that could take in a wide range of different types of entity acting in different industries. In practice it will be difficult to develop parameters or benchmarks that are attuned to the needs and practice of different CCOs other than the very general. Our concern is that poorly set parameters or benchmarks could generate frequent 'false positives' (i.e. a result that falsely indicates an issue) or (worse) 'false negatives' (i.e. a result that indicates a false 'green light').

These risks can be mitigated by requiring consultation with the experts in financial management in local authorities and their associated entities: the Society of Local Government Managers and the Auditor General. This is management as opposed to a governance issue.

Recommendation

- 56. That the Committee amend section 259(4) of the principal Act by deleting all words after “consultation” and replacing with “with:**
- (i) *the New Zealand Local Government Association Incorporated; and***
 - (ii) *the Society of Local Government Managers; and***
 - (iii) *the Auditor-General.”***

Wellbeing

*It's for local government to determine whether something is in their core and general area of responsibility or not.*²⁶ – Prime Minister John Key

We would like to conclude our submission with an observation that is something of *obiter dicta*.

The 2012 amendments changed the purpose of local government from “promoting the social, economic, environmental and cultural wellbeing of communities in the present and for the future” to the purpose of local government described earlier in this submission.

The sector strongly opposed this change. It was a response to local authorities undertaking activities that were somehow outside the alleged core business of local government. In fact, there is no evidence that local authorities were undertaking significant activity over and above what they did prior to 2002. In reality this was one Minister’s view of the way the world should be.

We were therefore interested to see that community wellbeing has made something of a comeback in this Bill. There are four separate, new references to wellbeing, namely:

- the proposed amendments to section 48R(4)
- the proposed new section 56A(3)
- the proposed new section 56B and
- the proposed amendment to section 97 of the Auckland Act

Most of these references appear to relate to matters that the Local Government Commission has to consider when exercising its powers. It is unclear to us why a body that is charged with helping determine arrangements that are meant to promote good local government is then required to consider something that sits outside the purpose of local government?

It is also worth noting that the proposed new section 56B is an obligation on local authorities to consider the current and future wellbeing when attempting to resolve disputes that relate to the establishment of multiply-owned CCOs. It seems somewhat strange that the legislation would require consideration of wellbeing in one minor aspect relating to one decision and not in others.

We suggest that this Bill is on the right track with regards to this element and therefore recommend that the Committee amend the Bill by also amending the purpose of local government to align it with these changes.

²⁶ “Key: Up to Council to Justify V8 Outlay”, as reported in NZ Herald of 12 July 2012.

Appendix



Shared Service Arrangements Survey: Summary Report

December 2015

Executive summary

As part of an investigation into the central government project entitled, Fit for the Future, SOLGM conducted a survey of councils to obtain a better understanding of how widely shared service and other joined-up arrangements exist within the local government sector, including how many and where, the nature of the services or activities they provide, and the form and nature of the arrangement. Legislative or regulatory blockages encountered in establishing shared service arrangements have been noted within this report.

Key Findings

- 79% of respondents noted they were involved in more than six shared service arrangements with 18% noting they were in three to five arrangements.
- Two thirds of respondents cited there were no barriers to shared service arrangements. The majority of respondents who had encountered a barrier, found it in the operational aspect of a shared service arrangement, rather than the establishment of an arrangement.
- Some of the barriers encountered were legislative. Two respondents noted barriers in the Rates Rebate Act, while two noted New Zealand Transport Agency (NZTA) regulations, and two cited unspecified issues with the Local Government Act.
- All respondents were involved in a shared service arrangement with other councils, with 53% also involved with a company. Similarly, 85% used a contract for service as the form of shared service arrangement.
- Administration, economic development, roading/land transportation, libraries and tourism were the most common service areas for shared arrangements.

Purpose of the survey

The purpose of the survey is to ensure that policy makers are aware of the full range of options for shared service arrangements that are currently available to local authorities, and of the benefits these options have generated.

Disclaimer: other than some editing to preserve respondent confidentiality the quotes within this document are verbatim, they reflect the views of the individuals who made them and are not necessarily the views of the author or of SOLGM.

Survey design

The survey was made available through SOLGM's LGConnect discussion groups in December 2015. The survey was administered online through SurveyMonkey with electronic links to the questionnaires being sent.

Definition of shared services

The term 'shared services' has various interpretations. For the purpose of this survey, a shared service arrangement exists where two or more local authorities work together to deliver physical services or share capacity to undertake some administrative or support activity such as rate collection. These arrangements might be managed through a contract, joint venture, joint committee, trust, CCO or some other organisational form.

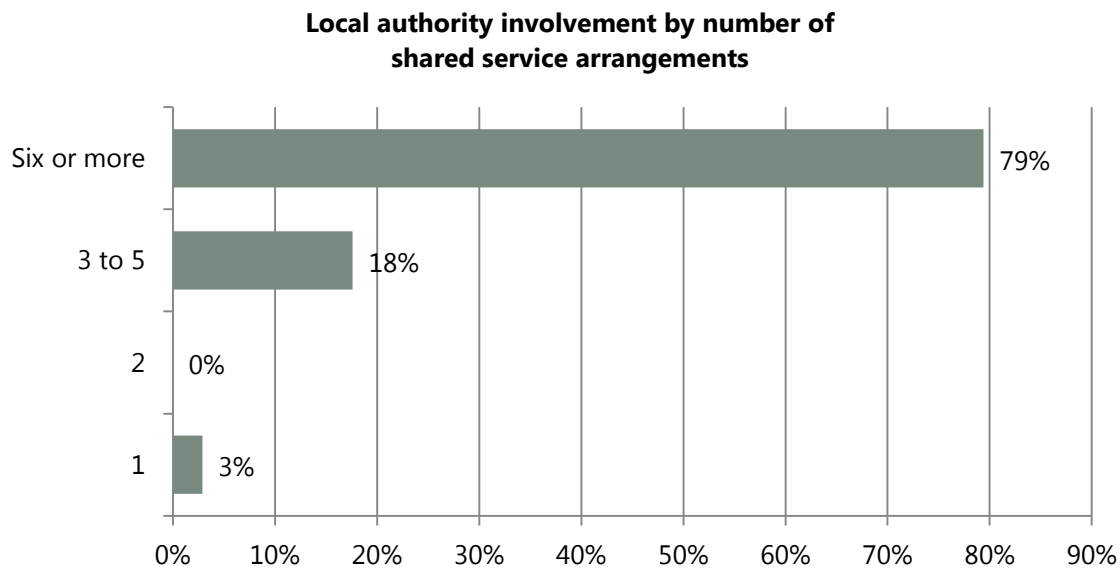
Please note cross-boundary or multi-district approaches to strategy, and arrangements that do not involve at least two local authorities (that is to say we are excluding arrangements that involve only one local authority and entities that are not local authorities) have been excluded as a shared service arrangement for the purposes of this survey. Examples of such exclusion would be in planning or policy development arrangements, such as SMARTGROWTH or the Canterbury Policy Forum.

Respondents

Of 78 local authorities we received responses from representatives of 35 councils. Of the respondents, metropolitan areas were poorly represented (only 2 councils from metropolitan areas responded). There are 16 provincial, 10 rural and 6 regional councils responses within the data gathered. Please note one council remained anonymous.

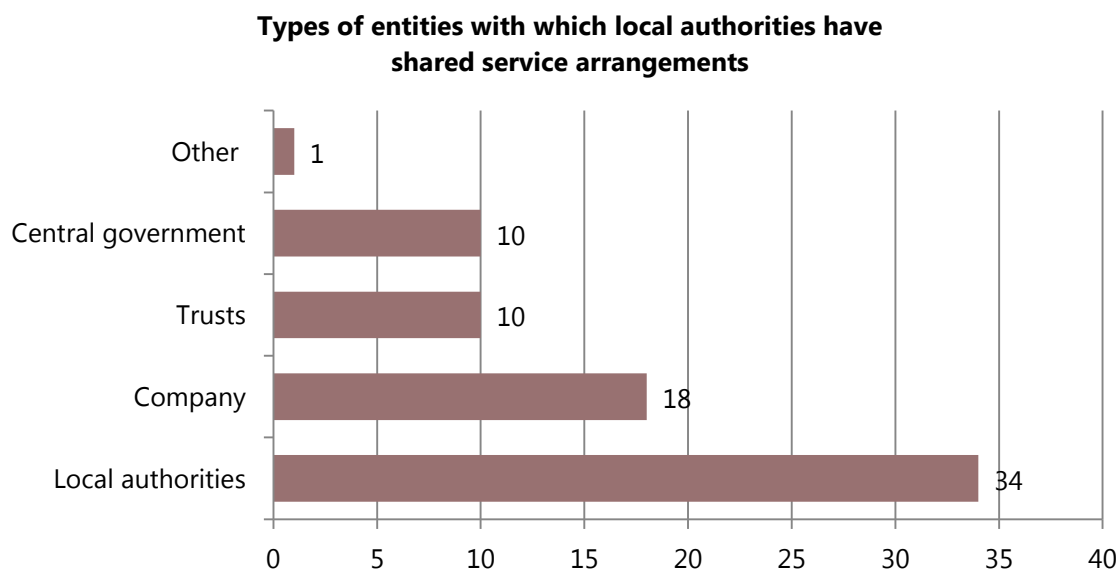
Shared service arrangements

An overwhelming majority of respondents (79%) were part of six or more shared service arrangements, with only one respondent (3%) noting they were in one shared service arrangement. 18% of respondents noted they were in three to five shared service arrangements. The results indicate that shared services are more prevalent than more commonly thought.



Local authority shared service arrangements with external entities

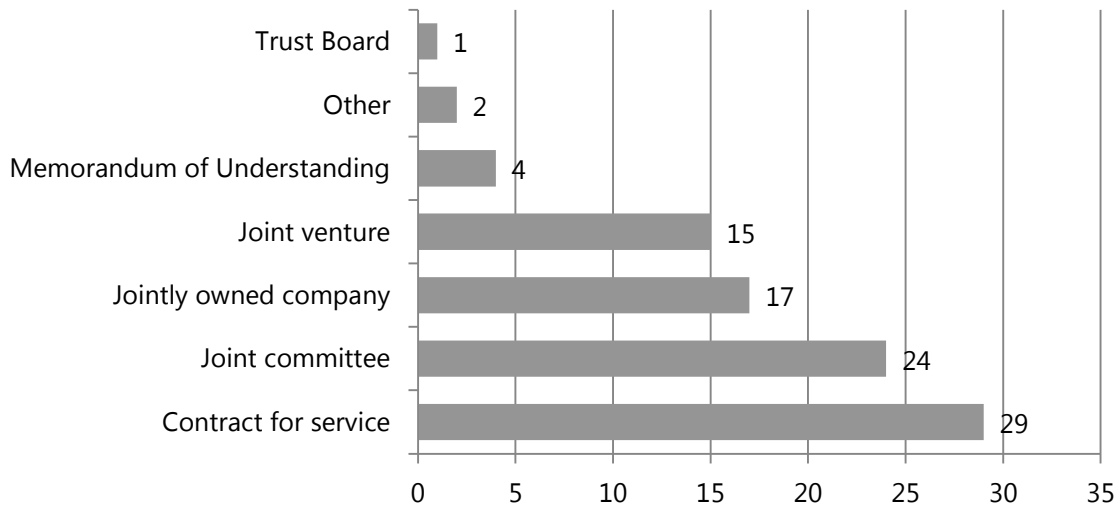
All but one of the survey participants responded to the question regarding local authority shared service arrangements with external entities. Of those survey participants that responded, all were in a shared service arrangement with other local authorities. 53% of respondents were involved with a company, 29% with trusts, and 29% with central government.



Forms of shared arrangements

The most common form of shared arrangement was through a contract for service, with 85% of respondents involved in a contract for service. This was followed with 71% involved in a joint committee, 50% in a jointly owned company, and 44% in a joint venture. A smaller proportion of respondents had a memorandum of understanding (12%), and one respondent noted their form of shared arrangement was a trust board. It is important to note that CCOs are not a necessary condition in establishing a shared service arrangement.

Local authority involvement by forms of shared arrangements



Service areas for shared arrangements

The areas in which the majority of shared service arrangements had been established were; administrative services, economic development, roading/land transportation, libraries, and tourism. 73% of respondents had used the shared arrangement for administrative services, 61% for economic development, 52% for roading/land transportation, 48% for libraries, and 48% for tourism. These results indicate that shared service arrangements occur in areas beyond infrastructure, encompassing the broad services that local authorities provide.

Services	Number of respondents
Administrative services	24
Economic development	20
Roading/land transport	17
Libraries	16
Tourism	16
Regulatory services	15
Solid waste/recycling	14
Water/wastewater	12
Sportsgrounds/stadiums	10
ICT services	10
Libraries/museums	8
Consent processing	8
Other transport	6
CDEM	6
Stormwater disposal/land drainage/flood control	5
Parks/reserves	4
Community centres	4
Total number of respondents	33 ²⁷

²⁷ Two survey participants did not answer this question. Multiple options were allowed for respondents.

Barriers

Two thirds of respondents did not identify any barriers in establishing their arrangement. Of the respondents that cited barriers, comments were provided. The barriers noted varied to each other with most comments reflecting the operational aspect of shared service arrangements.

Two respondents cited NZTA regulations, with one respondent commenting that one of the participating local authorities has to be designated as a Road Controlling Authority (RCA) as the New Zealand Transportation Agency (NZTA) can only fund RCAs. One suggested NZTA rules in the future might create a barrier in sharing capability:

In the case of the roading asset management collective in order to qualify for NZTA funding we had to nominate a lead Council that qualified as a Road Controlling Authority. NZTA can't co fund an entity that isn't an RCA.

Two respondents cited the Rates Rebate Act. One of the respondents noted that charges legally deemed as rates fell within the scope of this scheme, however excluded water/wastewater charges. While not necessarily a legal impediment per se it creates a political disincentive to act within this particular legislation.

Two respondents raised unspecified issues with the Local Government Act. A third respondent noted that they were unclear regarding the role of the Chief Executive in creating a shared service arrangement.

One respondent commented that Kiwirail's governing legislation or practice act as an impediment:

Kiwirail is unable to enter into a contract of longer than 5 years under their legislation leaving us somewhat exposed in a multi-million dollar arrangement.

One council suggested that:

What councils are doing with shared services doesn't fully satisfy section 17a. It would be better if the shared services programmes and section 17a reporting demands were better aligned so work is not repeated. We foresee some difficulty with human resources where staff, under individual contracts, are required to change conditions due to work-place/work-scope changes or due to a non-alignment with other councils.

One respondent mentioned the Resource Management Act precludes a joint development code:

Establishment of Local Government Funding Agency establishment required specialist legal advice regarding tax and guarantees. RMA precludes the ability to have a joint Development Code (identical codes must be adopted by each Council)

Respondents cited non-legal barriers including; transferring assets and getting them valued is a political issue, contracting issues with staff, doubts that central government will honour the so-called 60/40 split where a service is shared and a disaster occurs.

Benefits of shared services arrangements

By and large, respondents cited cost savings as the main benefit from sharing capability. This was followed by building capacity and enhanced cohesion or co-ordination in delivery.

Benefits cited by respondents ²⁸	Number of respondents
Cost savings	22
Building capacity	12
Enhanced cohesion or co-ordination in delivery	11
Better co-ordination in investments	8
Better management of risk	6
Improvements in service levels	6
Better relationships between councils	5
Standardisation of service	3
"Better practice" or "compliance"	3
Better access to funding	3
Miscellaneous	15
Total number respondents ²⁹	31

²⁸ We have categorised the comments made by respondents. Responses may be in multiple categories to reflect comments.

²⁹ Four survey participants did not answer this question.

8. SOUTHLAND WATER AND LAND PLAN - SUBMISSIONS

(Memo from Chief Executive 19.07.16)

The proposed Southland Water and Land Plan was released by Environment Southland for public submission on 3 June. The Plan, which has been several years in gestation, provides a comprehensive regulatory framework for Environment Southland to manage and govern activities that may adversely affect the quality of the region's fresh water. The Plan is a step towards the implementation at a regional level of the National Policy Statement for Fresh Water Management 2014. Further implementation of the National Policy Statement can be expected when Environment Southland release the programme of set objectives and limits for all specific catchments in the region. Environment Southland intends to complete the limit-setting programme by December 2025.

In the meantime the draft Water and Land Plan potentially has significant effects for the three territorial local authorities in Southland who administer water, waste water and stormwater systems. Given the common interests that need to be safeguarded and represented, a decision was made at an operational level to combine resources and thinking to prepare a joint submission to the Regional Council.

The Council's General Manager of District Assets, Mr Paul Withers, has led the Council input into the submission. Given the common interests at stake, it is perhaps not surprising that there was a good deal of unanimity amongst the three territorial authorities in relation to issues that need to be raised in the submission. Submissions were due with Environment Southland by 1 August 2016.

Due to the fact that there were no scheduled meetings for the Council in July, the Council staff proceeded with representing the Council's concerns in the submission process in the hope that the Council will ratify this course of action, together with the content of the submission at the next scheduled meeting of the full Council.

- ✚ A copy of the submission representing the combined efforts of the Gore District, Southland District and Invercargill City Councils is attached.
- ✚ Also attached is a separate submission from the Gore District Council.

RECOMMENDATION

THAT the Council note and endorse the combined Southland territorial Council submission and the separate submission from the Gore District Council made in response to the draft Southland Water and Land Plan released by Environment Southland.

Form 5**Submission on publicly notified proposal for policy statement or plan, change or variation*****Clause 6 of Schedule 1, Resource Management Act 1991***

To: Environment Southland
Private Bag 90116
Invercargill 9840
Southland
New Zealand

Name of submitter: Gore District Council, Invercargill City Council and Southland District Council

Address for Service: c/- Nardia Yozin
MWH NZ Ltd
PO Box 13249
Christchurch 8141
New Zealand
Email: Nardia.A.Yozin@mwhglobal.com
Phone: 03 341 4713/ 027 222 9807

This is a submission on the following proposed plan (the **proposal**): Proposed Southland Water and Land Plan

The submitters could not gain an advantage in trade competition through this submission.

The submitters are directly affected by an effect of the subject matter of the submission that —

- a. adversely affects the environment; and
- b. does not relate to trade competition or the effects of trade competition.

The specific provisions of the proposal that the submission relates to are:

- Proposed Southland Water and Land Plan generally
- Objective 6
- New proposed Objective for critical infrastructure
- Policies 14, 24, 25, 40 and 42
- New proposed policy for critical infrastructure
- Rules 5, 6, 8, 15, 26, 33, 34, 50 and 52
- Definitions for community sewage scheme, domestic wastewater, on-site wastewater treatment and reasonable mixing zone
- New proposed definition for critical infrastructure
- Section 32 Evaluation Report

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The submission is:

Outlined in sections 1, 2 and 3 below. Section 1 outlines the role of the submitters in the context of the proposed Southland Water and Land Plan, section 2 outlines general submission points and section 3 outlines specific submission points with specific relief sought by the submitters.

The submitters seek the following decision from the local authority: Please see Section 3

The submitters wish to be heard in support of the submission.

If others make a similar submission, the submitters would consider presenting a joint case with them at a hearing.

.....

Signature of submitter
(Gore District Council)

Date:/...../.....

.....

Signature of submitter
(Invercargill City Council)

Date:/...../.....

.....

Signature of submitter
(Southland District Council)

Date:/...../.....

1. Introduction:

- 1.1. Gore District Council, Invercargill City Council and Southland District Council (**the Councils**) are responsible for water, stormwater and wastewater management throughout the Gore District, Invercargill City and Southland District (**the districts**) and provide, operate and maintain the infrastructure necessary for the efficient functioning of their water, stormwater and wastewater systems.
- 1.2. Gore District Council (**GDC**) manages:
 - three water supply schemes - Gore (Cooper's wells and Jacobstown Wells), Mataura – (Pleura and Waikana Stream), and Rural (Otama Rural Water Supply Scheme) totalling 353km of pipeline;
 - 48km of stormwater pipeline; five stormwater drainage areas (Gore, Mataura, Waikaka, Pukerau and Mandeville which drain into the Mataura River, Waikaka Stream, Cronins Creek and Waimumu Stream); and
 - three wastewater schemes servicing Gore, Mataura and Waikaka which comprise of 103km of pipelines.
 -
- 1.3. Invercargill City Council (**ICC**) manages:
 - 360km of potable water pipes to supply Invercargill and Bluff, potable water is sourced from the Oreti River which is treated in the Branxholme Water Treatment Plant;
 - 412km of stormwater pipes which include the urban stormwater systems within Invercargill, Bluff, and parts of Otatara, other parts of Otatara are serviced by drainage ditches; and 364km of sewage pipes.
 - Wastewater is treated in treatment plants located in Bluff, Omaui and Clifton. ICC also maintains rural drainage systems, consisting of field tiles and ditches, in Makarewa and Myross Bush.
- 1.4. Southland District Council (**SDC**) manages:
 - 11 urban water supplies at supply schemes at Edendale-Wyndham, Lumsden, Manapouri, Mossburn, Ohai-Nightcaps-Wairio, Orawia, Otautau, Riverton, Te Anau, Tuatapere and Winton; 2 rural water supply schemes Eastern Bush-Otahu Flat and Lumsden-Balfour; 9 rural stock water supply schemes at Duncraigen, Five Rivers, Homestead, Kakapo, Matuku, Mount York, Princhester, Ramparts and Takitimu;
 - 28 stormwater networks at Balfour, Browns, Colac Bay, Dipton, Edendale, Limehills-Centre Bush, Lumsden, Manapouri, Monowai, Mossburn, Nightcaps, Ohai, Orepuki, Otautau, Riversdale, Riverton, Oban, Te Anau, Thornbury, Tokanui, Tuatapere, Waikaia, Waikawa, Wairio, Wallacetown, Winton, Woodlands and Wyndham; and
 - 18 sewerage schemes throughout Southland at Balfour, Browns, Edendale-Wyndham, Gorge Road, Lumsden, Manapouri, Monowai, Nightcaps, Ohai, Otautau, Riversdale, Riverton, Oban, Te Anau, Tokanui, Tuatapere, Wallacetown and Winton.
- 1.5. Water supply throughout the districts include small and large community and stock supply taken from a mixture of groundwater or surface water bodies. Where residents within the districts are not connected to reticulated water supply, private bores and surface water takes are used for household water supply and stock water supply.

- 1.6. The Councils' main concern relating to water supply is the ability to secure existing and new water supply sources (including the development of associated infrastructure and the associated water take) for their communities. This is especially a concern where the relevant water body is, or is close to being, over-allocated.
- 1.7. Stormwater management throughout the district includes both reticulated systems and surface drainage. Stormwater discharges are to either surface water bodies or to land and are generally untreated. The impact of the Proposed Southland Water and Land Plan (SWLP) on the Councils' ability to gain consent for these discharges without requiring significant expenditure is a concern. The feasibility of implementing treatment of the discharges given the technical constraints, if such treatment is required as a result of the Proposed SWLP, or the limit setting process, is also of concern.
- 1.8. Councils' ability to obtain consent for their wastewater discharges is a concern given the proposed planning framework. The potential costs to rate payers for upgrades that may be required to obtain such consent may have a significant effect on the districts.
- 1.9. The wastewater management systems within the districts include a number of engineered wastewater overflows. These existing wastewater overflows can discharge untreated wastewater into surface water bodies during high flow events. High flow events are generally a result of high rainfall where the network capacity is exceeded.
- 1.10. The Councils wish to consent these existing wastewater overflows in order to provide a clear framework and pathway for the reduction in the number and frequency of these discharges. However, the existing Regional Water Plan for Southland (RWPS), contains a prohibited activity rule which prohibits the discharge of raw sewage (Rule 14), meaning that a consent cannot be applied for.
- 1.11. This Prohibited Rule has been removed from the Proposed SWLP and these discharges will fall under Rule 6 of the Proposed SWLP. The Councils support the removal of the prohibited activity Rule.
- 1.12. This submission on behalf of the Councils relates to those objectives, policies and rules in the proposed SWLP relevant to water supply, stormwater management and wastewater management. The Councils will make separate submissions on the implications of the proposed SWLP for their individual districts in relation to other matters.
- 1.13. Sections 2 "Broad Submission" and 3 "Specific Submission Points" contain all the submission points relating to the proposed SWLP. Section 2 covers general submission points while section 3 covers specific submission points with detailed relief sought. Both sections 2 and 3 should be logged as submission points on behalf of the Councils.

2. Broad Submission:

- 2.1. The Councils are concerned about the lack of objectives and policies to recognise and provide for infrastructure, including infrastructure related to potable water supply, stock water supply, stormwater management and wastewater management.
- 2.2. The operative and proposed Regional Policy Statements (RPS) contain largely enabling objectives and policies relating to infrastructure. The Councils consider that the lack of recognition in the Proposed SWLP relating to infrastructure, particularly strategic infrastructure, raises potential inconsistencies between the Proposed SWLP and the RPS.

- 2.3. The Council considers that a new objective and new policies should be inserted into the proposed SWLP to achieve consistency with the operative and proposed RPS. The Councils note that the proposed RPS contains some internal inconsistencies relating to the enabling of infrastructure and the protection of water quality.
- 2.4. The Councils are concerned that the reference to the New Zealand Drinking Water Standards (NZDWS) is unclear as it implies that all freshwater needs to meet these standards. The NZDWS were established to demonstrate how a water treatment plant would achieve compliance with the public health requirements of provision of drinking water supply and, as a whole, is not readily related to the water quality of a specific water body. The policy (policy 15) needs to be more specific about what element of the NZDWS is being referenced. This is also an issue as the policy implies that all water should meet drinking water standard indicators, irrespective of if the water is for potable supply or recreation etc...
- 2.5. The Councils are concerned that the Proposed SWLP does not give priority to community water supply over private and commercial water supply.
- 2.6. The Councils consider that the Proposed SWLP should provide more prioritisation to small and large community supply takes and associated infrastructure.
- 2.7. The rules in the Proposed SWLP for community sewerage schemes may result in these discharges being non-complying activities on the basis of a relatively arbitrary consideration of leakage from community sewage scheme ponds, which does not reflect potential for adverse effects. This is especially concerning given that the current objectives and policy framework in the Proposed SWLP could severely restrict the Councils' ability to gain consents for a non-complying activity.
- 2.8. The Councils have a responsibility to construct, maintain and operate stormwater systems and undertake stormwater management in areas throughout the districts. These are generally more urban or developed areas. The Councils are concerned that the objective, policy and rule framework for stormwater management is not enabling and may result in increased costs to the Councils in providing this necessary infrastructure.
- 2.9. In most cases it seems that stormwater discharge from a reticulated system would be a discretionary activity under Rule 5, or a non-complying activity under Rule 6. The Councils concern here is about the objective and policy framework that would need to be considered by the consenting authority when assessing any application for stormwater discharge, which does not acknowledge the importance of infrastructure or its role in providing for the efficient functioning, well-being or health and safety of communities.
- 2.10. The Councils propose a number of amendments to the objectives and policies of the proposed SWLP which will create a more enabling framework for these necessary discharges, in line with the RPS.
- 2.11. The Councils support the removal of the Prohibited Rule contained in the RWPS (Rule 14) relating to raw sewage discharge, as it relates to sewer overflows.
- 2.12. The Councils have a responsibility to construct, maintain and operate wastewater infrastructure throughout the districts and are concerned that the proposed objective, policy and rule package relating to wastewater discharges is not enabling enough, and does not provide for common national practice relating to wastewater infrastructure design (use of overflows).

- 2.13. The Councils consider that the generic effects on the environment from wastewater overflows are generally well understood. A number of Regions throughout the country have included provision for sewage overflows in their Plans.
- 2.14. Generally, the Councils' concern is that although the Prohibited Rule in the RWPS has been deleted, the discharge of raw sewage from a sewer overflow is likely to be a non-complying activity in the SWLP (Rule 6 – Discharge Rules). Therefore, a consent for the discharge of raw sewage will be assessed against objectives and policies which have a strong lean to environmental protection and no reduction of water quality (Objective 6 and Policy 15), currently with no recognition of the importance of infrastructure. A discharge of raw sewage could be contrary to the objectives and policies of the SWLP, and gives the potential for an application for the discharge of raw sewage to be declined.
- 2.15. The Councils propose a number of amendments to the proposed SWLP to better enable wastewater overflows and manage any adverse environmental effects resulting from wastewater overflows. These amendments are outlined in Section 3.

3. Specific Submission Points:

Specific Provisions to which the my submissions relates to are:	My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struck through , while additions are <u>underlined</u> .)
<p>Definitions</p> <p>Community sewage scheme</p> <p><i>A scheme that collects and treats sewage from more than three sites which are predominantly residential housing, but may include a component of industrial and trade process effluent.</i></p>	<p>Oppose – Amend</p> <p>The definition of 'community sewage schemes' currently leaves a gap as the current definition for 'on-site wastewater system' is an individual dwelling/ building/ facility on a single property, whereas the definition for 'community sewage scheme' covers the wastewater treatment systems for three or more dwellings/ buildings/ or facilities on the site. This results in a situation where there are two dwellings/ buildings or facilities on a single landholding, they would not be covered by either the on-site domestic wastewater system rules, or the community sewage scheme rules. The Councils seek changes to the definition of 'community sewage scheme' to clarify this gap.</p> <p>The term "site" in the definition is undefined and we suggest that "landholding" is a more appropriate term.</p> <p>The Councils also consider that clarification is needed in the definition that community sewage schemes are both operated by councils or the private sector.</p>	<p>The definition of 'Community sewage scheme' be amended as follows:</p> <p>Community sewage scheme</p> <p>A scheme that collects and treats sewage from more than <u>one landholding</u> three sites which are <u>is</u> predominantly <u>from</u> residential housing, but may include a component of industrial and trade process effluent. <u>It includes both Council operated and privately operated schemes.</u></p>
<p>Definitions</p> <p>Domestic Wastewater</p> <p><i>For the purposes of this rule, domestic wastewater is</i></p>	<p>Oppose - Amend</p> <p>The Councils are concerned that, given the context of development in the districts, the</p>	<p>The definition of 'domestic wastewater' be <u>deleted</u>.</p>

Specific Provisions to which the my submissions relates to are:	My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struck through , while additions are <u>underlined</u> .)
<p><i>limited to effluent derived from dwellings, business buildings, institutions and the like, and consisting of toilet wastes and wash waters from kitchens, bathrooms and laundries, but excluding commercial laundry and commercial kitchen wastes.</i></p>	<p>definition of 'domestic wastewater' and Rule 26 will not provide for cafes and restaurants located in rural areas or those areas where there is not a reticulated sewage supply.</p> <p>The definition as written will mean that these small scale activities may require resource consent which is considered to be overly restrictive and can be otherwise properly managed through the building consent process.</p> <p>It is recognised that commercial kitchens can contain contaminants which carry risks for on-site systems, such as grease and fats. However, provided that the wastewater is sufficiently pre-treated prior to discharge to the on-site system such that the wastewater delivered to the system is generally of domestic character, the risk is considered minimal.</p> <p>We have proposed changes to Rule 26, which will reflect this concern.</p> <p>"Domestic wastewater" as a defined term is only used in Rule 26 and provided the changes requested are made to Rule 26, the term is no longer required and hence this definition can be deleted from the Plan.</p>	
<p>Definitions</p> <p>On-site Wastewater System</p> <p><i>The collection, treatment and disposal/reuse of wastewater from an individual home or commercial</i></p>	<p>Oppose - Amend</p> <p>As discussed for the definition of "Community Sewerage Schemes" earlier in our submission, there is a gap between the definition of "on-site</p>	<p>The definition of 'On-site wastewater system' be amended as follows:</p> <p>On-site Wastewater System</p>

Specific Provisions to which the my submissions relates to are:	My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struck through , while additions are <u>underlined</u> .)
<p><i>facility on the same property as it is generated. For the purposes of this definition, wastewater is limited to toilet wastes and wash water from kitchens, bathrooms and laundries.</i></p>	<p>wastewater systems” and “community sewerage schemes”.</p> <p>The requested changes are to close this gap. Given the proposed changes to Rule 26, the further definition of the constituents is not required and should be removed to ensure clarity.</p>	<p>The collection, treatment and disposal/reuse of wastewater from an individual homes or commercial facilities <u>on the same landholding property as it is generated. For the purposes of this definition, wastewater is limited to toilet wastes and wash water from kitchens, bathrooms and laundries.</u></p>
<p>Definitions</p> <p>Reasonable Mixing Zone</p> <p>When determining the size of the zone of reasonable mixing, minimise the size of the area where the relevant water quality standards are breached. The zone shall not be larger than:</p> <ul style="list-style-type: none"> a. for river and artificial watercourse locations with flowing water present at all times: <ul style="list-style-type: none"> i. no longer than 10 times the width of the wetted channel or 200 metres along the longest axis of the zone (whichever is the lesser), and ii. occupies no greater than two-thirds of the wetted channel width at the estimated Q95 for that location; b. for river and artificial watercourse locations, with intermittent flows, no longer than 20 metres at times of flow and 0 metres at no flow; c. when within a drinking water supply site identified in Appendix J, 0 metres. 	<p>Oppose – Amend</p> <p>The Councils consider it appropriate that the definition for ‘reasonable mixing zone’ is amended to include mixing zones which are specified through resource consents, and on that case-by-case basis considered to be appropriate. This will address the Councils’ concern that at some discharge locations the mixing zone specified in the definition may result in very small mixing zones in narrow waterways, irrespective of the flows, resulting in overly restrictive provisions for discharges in some streams. Considering that there are no permitted activities which relate to mixing zones – the Councils consider that amending the definition to include consent specific mixing zones is appropriate.</p>	<p>The definition for ‘Reasonable Mixing Zone’ is amended as follows:</p> <p>Reasonable Mixing Zone</p> <p>When determining the size of the zone of reasonable mixing, minimise the size of the area where the relevant water quality standards are breached. The zone shall not be larger than:</p> <ul style="list-style-type: none"> a. for river and artificial watercourse locations with flowing water present at all times: <ul style="list-style-type: none"> i. no longer than 10 times the width of the wetted channel or 200 metres along the longest axis of the zone (whichever is the lesser), and ii. occupies no greater than two-thirds of the wetted channel width at the estimated Q95 for that location; b. for river and artificial watercourse locations, with intermittent flows, no longer than 20 metres at times of flow and

Specific Provisions to which the my submissions relates to are:	My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struck through , while additions are <u>underlined</u> .)
		<p>0 metres at no flow;</p> <p>c. when within a drinking water supply site identified in Appendix J, 0 metres;</p> <p>d. <u>A distance determined as appropriate through resource consent application.</u></p>
<p>Definitions</p> <p>New Definition</p>	<p>Amend – Insert new Definition</p> <p>The proposed SWLP does not contain any recognition of infrastructure or critical infrastructure which is recognised in the operative and proposed RPS. The Councils consider it necessary for infrastructure to be recognised in the proposed SWLP through the objective, policy and rule framework. To assist with this, it is sought that a definition for 'critical infrastructure' is inserted into the proposed SWLP.</p>	<p>Insert a new definition consistent with the RPS as follows:</p> <p><u>Critical infrastructure</u> <u>Infrastructure that provides services which, if interrupted, would have a significant effect on the wellbeing and health and safety of people and communities and would require reinstatement, and includes all strategic facilities.</u></p>
<p>Region-wide Objectives</p> <p>Objective 6: <i>There is no reduction in the quality of freshwater, and water in estuaries and coastal lagoons, by:</i></p> <p><i>(a) maintaining the quality of water in waterbodies, estuaries and coastal lagoons, where the water quality is not degraded; and</i></p> <p><i>(b) improving the quality of water in waterbodies, estuaries and coastal lagoons, that have been degraded by human activities</i></p>	<p>Oppose – Amend</p> <p>Objective 6 requires that there is no reduction in water quality through the maintenance of water bodies which are not degraded, and the improvement of those that are.</p> <p>The Councils manage stormwater and wastewater infrastructure which discharge into surface water bodies.</p> <p>The Councils are concerned that Objective 6, does not provide for these necessary infrastructure discharges, irrespective of any measures to mitigate and remedy effects resulting from these discharges.</p> <p>The Councils also note that Objective 6 wording</p>	<p>Objective 6 is clarified to address the concerns raised by the Councils submission:</p> <p>Objective 6: <i>There is no <u>overall</u> reduction in the quality of freshwater, and water in estuaries and coastal lagoons by:</i></p> <p><i>(a) maintaining the quality of water in waterbodies, estuaries and coastal lagoons, where the water quality is not degraded; and</i></p> <p><i>(b) improving the quality of water in waterbodies, estuaries and coastal lagoons, that have been degraded by human activities</i></p> <p><u>To ensure freshwater objectives are met</u></p>

Specific Provisions to which the my submissions relates to are:	My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struck through , while additions are <u>underlined</u> .)
	<p>comes from the National Policy Statement for Freshwater Management (NPS:FM), however the wording in the NPS:FM refers to improving water quality where it has been degraded 'to the point of being over allocated'. The SWLP does not provide this context. Furthermore, the NPS:FM seeks that the overall water quality of a region is improved, this wording implies that some discharges can occur, provided the adverse effects do not impact overall water quality within the region. In this regard the Councils note that recent national discussions on the NPS:FM indicate that changes in the water quality may be allowed provided that it remains within the designated "attribute state". This clarification would be beneficial to interpretation of this Objective.</p> <p>Additionally, Policy 21 of the New Zealand Coastal Policy Statement 2010 (NZCPS), which applies within the coastal environment, so is also relevant to the SWLP, seeks that priority is given to improving water quality where it has deteriorated to a level where it is having significant adverse effects.</p> <p>The Councils consider that Objective 6 is overly restrictive, and more restrictive than both the NPS:FM and the NZCPS and therefore propose that Objective 6 is amended to better align with the NPS:FM.</p>	
Region-wide Objectives	Amend – Insert new Region-wide Objective	A new Region-wide objective is inserted as

Specific Provisions to which the my submissions relates to are:	My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struck through , while additions are <u>underlined</u> .)					
New Objective	<p>The Councils consider that the efficient functioning of infrastructure needs to be recognised in the SWLP.</p> <p>The NZCPS, operative RPS and proposed RPS all recognise the importance of the built environment and infrastructure in providing for social, economic and cultural wellbeing.</p> <p>The Councils consider that the strategic importance of infrastructure needs recognition in the SWLP through the addition of a new objective.</p> <p>Appropriateness of Proposed Objective A</p> <table><tr><td>Relevance</td></tr><tr><td>The objective is an appropriate way of achieving the direction set out in section 5 of the RMA. Critical infrastructure is necessary in order to service communities and provide for their social, economic and cultural well-being as well as health and safety and the proposed objective helps to support the development and maintenance of critical infrastructure while avoiding, remedying and mitigating any adverse environmental effects.</td></tr><tr><td>Feasibility</td></tr><tr><td>The objective will assist decision makers when considering potential critical infrastructure projects or the maintenance and upgrading of existing critical infrastructure.</td></tr><tr><td>Acceptability</td></tr></table>	Relevance	The objective is an appropriate way of achieving the direction set out in section 5 of the RMA. Critical infrastructure is necessary in order to service communities and provide for their social, economic and cultural well-being as well as health and safety and the proposed objective helps to support the development and maintenance of critical infrastructure while avoiding, remedying and mitigating any adverse environmental effects.	Feasibility	The objective will assist decision makers when considering potential critical infrastructure projects or the maintenance and upgrading of existing critical infrastructure.	Acceptability	<p>follows:</p> <p>Objective A: <u>The benefits of critical infrastructure to health and safety and the economic, social and cultural wellbeing of people and communities are recognised, while any adverse environmental effects resulting from critical infrastructure are minimised.</u></p>
Relevance							
The objective is an appropriate way of achieving the direction set out in section 5 of the RMA. Critical infrastructure is necessary in order to service communities and provide for their social, economic and cultural well-being as well as health and safety and the proposed objective helps to support the development and maintenance of critical infrastructure while avoiding, remedying and mitigating any adverse environmental effects.							
Feasibility							
The objective will assist decision makers when considering potential critical infrastructure projects or the maintenance and upgrading of existing critical infrastructure.							
Acceptability							

Specific Provisions to which the my submissions relates to are:	My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struck through , while additions are <u>underlined</u> .)
	<p>Overall, this objective provides for the functional needs of communities while providing options for avoiding, remedying and mitigating adverse environmental effects.</p> <p>Overall Appropriateness</p> <p>It is considered that Objective A is appropriate to achieve the purpose of the RMA.</p>	
<p>Region-wide policies</p> <p>Policy 13 – Management of land use activities and discharges</p> <p><i>Manage land use activities and discharges (point source and non-point source) to land and water so that water quality and the health of humans, domestic animals and aquatic life, is protected.</i></p>	<p>Support</p> <p>The Councils support Policy 13 as it suggests that activities and discharges are managed to protect health, wellbeing and safety of humans, terrestrial fauna and freshwater fauna.</p>	<p>No amendment sought.</p>
<p>Region-wide Policies</p> <p>Policy 14 – Preference for discharges to land</p> <p><i>Prefer discharges to land, rather than direct discharges to water</i></p>	<p>Oppose - Amend</p> <p>The Councils accept that where possible, discharges should be to land rather than surface water. However, many stormwater and wastewater discharges in the districts are to surface water bodies, while wastewater overflows to surface water also occur. The policy framework created through Policy 14, could make it challenging for these surface water discharge activities to obtain consent, irrespective of their actual environmental effects.</p> <p>The Councils consider that Policy 14 should be amended to take into account general practice relating to stormwater and wastewater discharges and wastewater overflows to surface water and</p>	<p>Policy 14 is amended as follows:</p> <p>Policy 14 – Preference for discharges to land</p> <p><i>Prefer discharges to land, rather than direct discharges to water <u>where practicable</u>.</i></p>

Specific Provisions to which the my submissions relates to are:	My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struck through , while additions are <u>underlined</u> .)
	their actual environmental effects.	
<p>Region-wide Policies</p> <p>Policy 15 – Maintaining and improving water quality</p> <p><i>Maintain and improve water quality by:</i></p> <ol style="list-style-type: none"> 1. <i>despite any other policy or objective in this Plan, avoiding new discharges to surface waterbodies that will reduce water quality beyond the zone of reasonable mixing;</i> 2. <i>avoiding point source and non-point source discharges to land that will reduce surface or groundwater quality, unless the adverse effects of the discharge can be avoided, remedied or mitigated;</i> 3. <i>avoiding land use activities that will reduce surface or groundwater quality, unless the adverse effects can be avoided, remedied or mitigated; and</i> 4. <i>avoiding discharges to artificial watercourses that will reduce water quality in a river, lake or modified watercourse beyond the zone of reasonable mixing;</i> <p><i>so that:</i></p> <ol style="list-style-type: none"> 1. <i>water quality is maintained where it is better than the water quality standards specified in Appendix E “Water Quality Standards”; or</i> 2. <i>water quality is improved where it does not meet the water quality standards specified in Appendix E “Water Quality Standards”; and</i> 	<p>Oppose - Amend</p> <p>The Councils consider this Policy to be confusing as part (1) seeks that any reduction in water quality caused by new discharges should be avoided, while parts (2) and (3) refer to avoiding discharges that may have adverse effects on water quality unless the effects can be avoided, remedied or mitigated.</p> <p>This makes it unclear to any applicant if a new discharge has to avoid any adverse effects, or that any adverse effects can be remedied or mitigated, provided water quality standards are met. A discharge could reduce water quality, but this reduced water quality could still meet the relevant water quality standards.</p> <p>Furthermore, the Policy seeks that all water meets the <i>Drinking-Water Standards for New Zealand 2005 (revised 2008)</i>, regardless of if the water will be used as a potable supply or is used for recreational or other non-potable purposes. The NZDWS were established to demonstrate how a water treatment plant would achieve compliance with the public health requirements of provision of drinking water supply and, as a whole, is not readily related to the water quality of a specific water body. The current drafting of the policy creates confusion as to how it is to be implemented.</p>	<p>Policy 15 is amended as follows:</p> <p>Policy 15 – Maintaining and improving water quality</p> <p><i>Maintain and improve water quality by:</i></p> <ol style="list-style-type: none"> 1. <i>despite any other policy or objective in this Plan, avoiding new discharges to surface waterbodies that will reduce water quality beyond the zone of reasonable mixing <u>unless the adverse effects of the discharge can be avoided, remedied or mitigated</u>;</i> 2. <i>avoiding point source and non-point source discharges to land that will reduce surface or groundwater quality, unless the adverse effects of the discharge can be avoided, remedied or mitigated;</i> 3. <i>avoiding land use activities that will reduce surface or groundwater quality, unless the adverse effects can be avoided, remedied or mitigated; and</i> 4. <i>avoiding discharges to artificial watercourses that will reduce water quality in a river, lake or modified <u>modified</u> watercourse beyond the zone of reasonable mixing;</i> <p><i>so that:</i></p> <ol style="list-style-type: none"> 1. <i>water quality is maintained where it is</i>

Specific Provisions to which the my submissions relates to are:	My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struck through , while additions are <u>underlined</u> .)
<p>3. <i>water quality meets the Drinking-Water Standards for New Zealand 2005 (revised 2008); and</i></p> <p>4. <i>ANZECC sediment guidelines (as shown in Appendix C of this Plan) are met.</i></p>	<p>This is overly restrictive as it is unlikely that many waterbodies within the Southland Region would meet indicators in the Drinking-Water Standards for New Zealand, particularly those relating to micro-organisms.</p> <p>Compliance with the NZDWS, in its entirety, requires rigorous testing. Reference to this standard as a whole could imply that this testing is required in all water bodies, which would not be appropriate.</p> <p>However, given the potential confusion that can result from this reference, we request that the reference to the NZDWS be deleted from the Policy.</p> <p>Only water that is used for potable supply should be required to meet drinking water standards. Water that is used for other purposes should be managed to meet, or be better than the standards specified for that purpose (eg. Stock supply).</p>	<p><i>better than the water quality standards specified in Appendix E "Water Quality Standards"; or</i></p> <p>2. <i>water quality is improved where it does not meet the water quality standards specified in Appendix E "Water Quality Standards"; and</i></p> <p>3. <i>water quality meets the Drinking-Water Standards for New Zealand 2005 (revised 2008); and</i></p> <p>4. <i>ANZECC sediment guidelines (as shown in Appendix C of this Plan) are met.</i></p>
<p>Region-wide policies</p> <p>Policy 24 – Water abstraction for community water supply</p> <p><i>Recognise the need for, and assign priority to, the provision of water for community water supply when allocating water:</i></p> <p>1. <i>provided that significant adverse effects on the following are avoided as a first preference, and if unable to be avoided, are mitigated:</i></p>	<p>Oppose - Amend</p> <p>The Councils generally support Policy 24 as it provides a Policy framework which prioritises water for community supply. However, the Councils are concerned that there is little clarity around how this Policy would be implemented in areas where a new community supply is necessary – but the catchment has been over allocated.</p> <p>The Councils are concerned that this Policy could</p>	<p>Policy 24 is amended to:</p> <p>1. Clarify how this policy will relate to community supply where the catchment is over allocated.</p> <p>2. Clarify the 'scale of activity' and the expectations around the scale and detail of the water demand strategy document.</p>

Specific Provisions to which the my submissions relates to are:	My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struck through , while additions are <u>underlined</u> .)
<ul style="list-style-type: none"> a. <i>the quality and quantity of aquatic habitats;</i> b. <i>natural character values, natural features, and amenity, aesthetic and landscape values;</i> c. <i>areas of significant indigenous vegetation and significant habitats of indigenous fauna;</i> d. <i>recreational values;</i> e. <i>the spiritual and cultural values and beliefs of the tangata whenua;</i> f. <i>water quantity and quality;</i> g. <i>long-term aquifer storage volumes; and</i> h. <i>historic heritage values; and</i> <p>2. <i>provided that a water demand management strategy commensurate to both the scale of the activity and its potential effects is part of any application for:</i></p> <ul style="list-style-type: none"> a. <i>a new or replacement water permit for a community water supply; or</i> b. <i>an amendment to an existing water permit for a community water supply.</i> 	<p>require Councils to source community supply from catchments further away if the local catchment is over allocated which increases the cost of the supplying infrastructure. The Councils note that in some cases an over allocation is administrative only (e.g. Lumsden in the Southland District).</p> <p>Furthermore, the Policy requires a water demand management strategy for community takes, irrespective of their volume. The Councils consider this to be overly restrictive when larger takes for private or commercial uses do not require a water demand management strategy.</p>	
<p>Region-wide policies</p> <p>Policy 25 – Priority takes</p> <p><i>When issuing a water shortage direction, Environment Southland will give priority to water</i></p>	<p>Oppose – Amend</p> <p>The Councils are concerned about the consistency between Policies 24 and 25. Policy 24 gives priority to community supply, while Policy 25 does not seem to identify community</p>	<p>Policy 25 is amended as follows:</p> <p>Policy 25 – Priority takes</p> <p><i>When issuing a water shortage direction, Environment Southland will give priority to water</i></p>

Specific Provisions to which the my submissions relates to are:	My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struck through , while additions are <u>underlined</u> .)
<p><i>abstraction for the following uses:</i></p> <ol style="list-style-type: none"> <i>reasonable domestic needs;</i> <i>reasonable animal drinking needs;</i> <i>fire-fighting purposes;</i> <i>public health needs; or</i> <i>animal welfare needs.</i> 	<p>supply as a priority. The Councils would like community supply to be included as part of 'reasonable domestic needs'.</p>	<p><i>abstraction for the following uses:</i></p> <ol style="list-style-type: none"> <i>reasonable domestic needs, <u>including for community supply</u>;</i> <i>reasonable animal drinking needs;</i> <i>fire-fighting purposes;</i> <i>public health needs; or</i> <i>animal welfare needs.</i>
<p>Region-wide policies Policy 40 – Determining the term of resource consents <i>When determining the term of a resource consent consideration will be given, but not limited, to:</i></p> <ol style="list-style-type: none"> <i>granting a shorter duration when there is uncertainty regarding the nature, scale, duration and frequency of adverse effects from the activity or the capacity of the resource;</i> <i>relevant tangata whenua values and Ngāi Tahu indicators of health;</i> <i>the duration sought by the applicant, plus material to support the duration sought;</i> <i>the permanence and economic life of any capital investment;</i> <i>the desirability of applying a common expiry date for water permits that allocate water from the same resource or land use and discharges that may affect the quality of the</i> 	<p>Oppose – Amend The Councils support Policy 40 where the permanence and economic life of any capital investment is a consideration for determining the term of a resource consent. However, the Councils consider that it is important that social, cultural, economic and environmental wellbeing as well as health and safety are also a consideration as many infrastructure related consents are necessary for the Councils to undertake their necessary functions within their communities such as potable water supply, stormwater management and wastewater management. Including social, cultural, economic and environmental wellbeing as well as health and safety as part of the consideration for resource consents is in accordance with section 5 of the RMA.</p>	<p>Policy 40 is amended as follows: Policy 40 – Determining the term of resource consents <i>When determining the term of a resource consent consideration will be given, but not limited, to:</i></p> <ol style="list-style-type: none"> <i><u>how the resource consent will provide for social, economic and cultural wellbeing, as well as health and safety;</u></i> <i>granting a shorter duration when there is uncertainty regarding the nature, scale, duration and frequency of adverse effects from the activity or the capacity of the resource;</i> <i>relevant tangata whenua values and Ngāi Tahu indicators of health;</i> <i>the duration sought by the applicant, plus material to support the duration sought;</i> <i>the permanence and economic life of any capital investment;</i>

Specific Provisions to which the my submissions relates to are:	My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struck through , while additions are <u>underlined</u> .)
<p><i>same resource;</i></p> <p>6. <i>the applicant's compliance with the conditions of any previous resource consent; and</i></p> <p>7. <i>the timing of development of FMU sections of this Plan, and whether granting a shorter or longer duration will better enable implementation of the any revised frameworks established in those sections.</i></p>		<p>6. <i>the desirability of applying a common expiry date for water permits that allocate water from the same resource or land use and discharges that may affect the quality of the same resource;</i></p> <p>7. <i>the applicant's compliance with the conditions of any previous resource consent; and</i></p> <p>8. <i>the timing of development of FMU sections of this Plan, and whether granting a shorter or longer duration will better enable implementation of the any revised frameworks established in those sections.</i></p>
<p>Region-wide policies</p> <p>Policy 42 – Consideration of water permit applications</p> <p><i>When considering resource consent applications for water permits:</i></p> <p>1. <i>consent will not be granted if a waterbody is fully allocated, or to do so would result in a waterbody becoming over allocated or over allocation being increased;</i></p> <p>2. <i>consents replacing an expiring resource consent for an abstraction from an over-allocated waterbody may be granted with a lesser volume and rate or take proportional to the amount of over-allocation and</i></p>	<p>Oppose – Amend</p> <p>The Councils consider that the consideration of water permits needs to take into account how the water permit application will provide for sustainable management and health and safety. The Councils seek that Policy 42 is amended so that sustainable management is a consideration for water permit applications. This will enable the consideration of the community's social, cultural and economic needs as well as the community's health and safety when considering water permit applications. Including social, cultural, economic and environmental wellbeing as well as health and safety as part of the consideration for resource</p>	<p>Amend Policy 42 as follows:</p> <p>Policy 42 – Consideration of water permit applications</p> <p><i>When considering resource consent applications for water permits:</i></p> <p>1. <u><i>consideration will be given as to how the water permit application will provide for social, economic and cultural well-being of communities as well as health and safety;</i></u></p> <p>2. <i>consent will not be granted if a waterbody is fully allocated, or to do so would result in a waterbody becoming over allocated or over allocation being increased;</i></p>

Specific Provisions to which the my submissions relates to are:	My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struck through , while additions are <u>underlined</u> .)
<p><i>previous use;</i></p> <ol style="list-style-type: none"> 3. <i>installation of water measuring devices will be required on all new permits to take and use water, and existing permits in accordance with the Resource Management (Measurement and Reporting of Water Takes) Regulations 2010;</i> 4. <i>where appropriate, minimum level and/or flow cut-offs and seasonal recovery triggers on resource consents for groundwater abstraction will be imposed;</i> 5. <i>conditions will be specified relating to a minimum flow/level, in accordance with Appendix L, to all new or replacement resource consents (except for water permits for community water supplies and waterbodies subject to minimum flow and level regimes established under any water conservation order) for:</i> <ol style="list-style-type: none"> a. <i>surface water abstraction, damming, diversion and use; and</i> b. <i>groundwater abstraction where there is Riparian, Direct or High degree of hydraulic connection in accordance with Policy 23 "Stream Depletion Effects" and the stream depletion effect exceeds two litres per second.</i> 	<p>consents is in accordance with section 5 of the RMA.</p>	<ol style="list-style-type: none"> 3. consents replacing an expiring resource consent for an abstraction from an over-allocated waterbody may be granted with a lesser volume and rate or take proportional to the amount of over-allocation and previous use; 4. <i>installation of water measuring devices will be required on all new permits to take and use water, and existing permits in accordance with the Resource Management (Measurement and Reporting of Water Takes) Regulations 2010;</i> 5. <i>where appropriate, minimum level and/or flow cut-offs and seasonal recovery triggers on resource consents for groundwater abstraction will be imposed;</i> 6. <i>conditions will be specified relating to a minimum flow/level, in accordance with Appendix L, to all new or replacement resource consents (except for water permits for community water supplies and waterbodies subject to minimum flow and level regimes established under any water conservation order) for:</i> <ol style="list-style-type: none"> a. <i>surface water abstraction, damming, diversion and use; and</i> b. <i>groundwater abstraction where there is Riparian, Direct or High degree of hydraulic connection in</i>

Specific Provisions to which the my submissions relates to are:	My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struck through , while additions are <u>underlined</u> .)
		<i>accordance with Policy 23 "Stream Depletion Effects" and the stream depletion effect exceeds two litres per second.</i>
Region-wide policies New Policy	Amend – insert new Region-wide Policy The Councils consider that the efficient functioning of critical infrastructure needs to be recognised in the SWLP. The NZCPS, operative RPS and proposed RPS all recognise the importance of the built environment and infrastructure in providing for social, economic and cultural wellbeing. The Councils consider that the strategic importance of critical infrastructure needs recognition in the SWLP through the addition of a new Policy.	A new Region-wide Policy is inserted as follows: <u>Policy B – Critical Infrastructure</u> <u>The development, operation and maintenance of critical infrastructure:</u> 1. <u>follows good environmental practice;</u> 2. <u>recognises operational and technical constraints;</u> 3. <u>provides for social, cultural, economic and environmental well-being of communities, including their health and safety; and</u> 4. <u>avoids, remedies or mitigates any adverse environmental effects on the receiving catchment where practicable.</u>
Region-wide Rules Rule 5 – Discharges to surface waterbodies that meet water quality standards <i>Except as provided for elsewhere in this Plan the discharge of any:</i> a. <i>contaminant, or water, into a surface waterbody; or</i>	Support in Part The Councils are concerned that the existing quality of the waterbody upstream is not adequately considered. This means that a discharge (which the Councils wish to consent) may have negligible impacts on the waterbody (in the sense of increasing adverse effects), but due to the quality of the waterbody upstream, wouldn't	No decision sought for Rule 5 unless the Councils proposed changes to objectives, policies related to critical infrastructure and the proposed amendments to Rule 15 and 33 are not accepted.

Specific Provisions to which the my submissions relates to are:	My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struck through , while additions are <u>underlined</u> .)
<p><i>b. contaminant onto or into land in circumstances where it may enter a surface waterbody;</i></p> <p><i>is a discretionary activity provided the following condition is met:</i></p> <p><i>i. the discharge does not reduce the water quality below any standards set for the relevant waterbody in Appendix E “Water Quality Standards” at the downstream edge of the reasonable mixing zone; and</i></p> <p><i>ii. the discharge does not contain any raw sewage.</i></p>	<p>meet water quality standards and therefore trigger a non-complying activity (Rule 6).</p> <p>The Councils seek that Rule 33 is amended to provide for discharges from community sewage schemes to water to occur as a discretionary activity.</p>	
<p>Region-wide Rules</p> <p>Rule 6 – Discharges to surface waterbodies that do not meet water quality standards</p> <p><i>Except as provided for elsewhere in this Plan the discharge of any:</i></p> <p><i>a. contaminant, or water, into a surface waterbody; or</i></p> <p><i>b. contaminant onto or into land in circumstances where it may enter a surface waterbody that does not meet the conditions in Rule 5;</i></p> <p><i>is a non-complying activity.</i></p>	<p>Oppose - Amend</p> <p>The Councils are concerned that sewage overflows from high flow events would be a non-complying activity in the proposed SWLP. The objectives and policies in the proposed SWLP strongly lean towards environmental protection in the first instance, with no room for any degradation of the environment. The Councils are concerned that the objective and policy framework which sits above Rule 6 in the proposed SWLP would mean that a discharge of raw sewage via a sewage overflow that adversely affects water quality would be ‘contrary’ to the objectives and policies of the proposed SWLP. This gives the potential for the application</p>	<p>No decision sought unless the Councils’ proposed changes to objectives and policies related to critical infrastructure and the proposed amendments to Rule 15 and 33 are not accepted.</p>

Specific Provisions to which the my submissions relates to are:	My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struck through , while additions are <u>underlined</u> .)
	<p>to be declined and no resource consent granted.</p> <p>This would also be the case for other discharges that cannot meet the conditions of Rule 5 as previously discussed.</p> <p>This submission from the Councils suggests amendments to the objectives and policies which specifically reference infrastructure.</p> <p>The Councils seek that Rule 33 is amended to provide for discharges from community sewage schemes to water to occur as a discretionary activity.</p> <p>The Councils acknowledge that Rule 6 replaces the Prohibited Rule (Rule 14) from the RWPS and support the removal of the Prohibited Rule.</p>	
<p>Region-wide Rules</p> <p>Rule 8 – Discharges of surface water</p> <p><i>The discharge of surface water into a surface waterbody or artificial watercourse is a controlled activity provided the following conditions are met:</i></p> <ul style="list-style-type: none"> a. <i>the discharge was lawfully established prior to 1 January 2010;</i> b. <i>the lawfully established discharge point has not changed; and</i> c. <i>at the downstream edge of the reasonable mixing zone, the discharge does not reduce the water quality of the receiving waters or give rise to any of the following effects in the receiving water:</i> <ul style="list-style-type: none"> i. <i>the production of any conspicuous oil</i> 	<p>Oppose - Amend</p> <p>The Councils consider that a minor change is required in the phrasing of part a(iv) as “<i>other than the target species.</i>” appears to be taken from the following Rule 9 for agrichemicals, which have a “target species” but “surface water” does not. As previously noted, the Councils also consider that the definition of ‘reasonable mixing zone’ needs to be amended.</p>	<p>Amend Rule 8 as follows:</p> <p>Rule 8 – Discharges of surface water</p> <p><i>The discharge of surface water into a surface waterbody or artificial watercourse is a controlled activity provided the following conditions are met:</i></p> <ul style="list-style-type: none"> a. <i>the discharge was lawfully established prior to 1 January 2010;</i> b. <i>the lawfully established discharge point has not changed; and</i> c. <i>at the downstream edge of the reasonable mixing zone, the discharge does not reduce the water quality of the receiving waters or give rise to any of the following effects in the receiving water:</i> <ul style="list-style-type: none"> i. <i>the production of any conspicuous</i>

Specific Provisions to which the my submissions relates to are:	My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struck through , while additions are <u>underlined</u> .)
<p><i>or grease films, scums or foams, or floatable or suspended materials;</i></p> <p>ii. <i>any conspicuous change in visual clarity;</i></p> <p>iii. <i>the rendering of freshwater unsuitable for consumption by farm animals; or</i></p> <p>iv. <i>any significant adverse effects on aquatic life, other than the target species.</i></p> <p>Environment Southland will restrict the exercise of its control to the following matters:</p> <ol style="list-style-type: none"> 1. <i>the potential for flooding of any person's property, as a result of the discharge;</i> 2. <i>erosion of the bed or banks of the receiving surface waterbody or artificial watercourse, as a result of the discharge; and</i> 3. <i>actual or potential effects on existing water users and aquatic ecosystems.</i> 		<p><i>oil or grease films, scums or foams, or floatable or suspended materials;</i></p> <p>ii. <i>any conspicuous change in visual clarity;</i></p> <p>iii. <i>the rendering of freshwater unsuitable for consumption by farm animals; or</i></p> <p>iv. <i>any significant adverse effects on aquatic life, other than the target species.</i></p> <p>Environment Southland will restrict the exercise of its control to the following matters:</p> <ol style="list-style-type: none"> 1. <i>the potential for flooding of any person's property, as a result of the discharge;</i> 2. <i>erosion of the bed or banks of the receiving surface waterbody or artificial watercourse, as a result of the discharge; and</i> 3. <i>actual or potential effects on existing water users and aquatic ecosystems.</i>
<p>Region-wide Rules</p> <p>Rule 15 – Discharge of stormwater</p> <p>a. <i>The discharge of stormwater onto or into land in circumstances where contaminants</i></p>	<p>Oppose - Amend</p> <p>The Councils consider that the definition for stormwater is too narrow. For example, stormwater networks are never completely water tight and therefore groundwater can infiltrate into</p>	<p>Amend Rule 15 as follows:</p> <p>Rule 15 – Discharge of stormwater</p> <p>a. <i>The discharge of stormwater onto or into land in circumstances where contaminants</i></p>

Specific Provisions to which the my submissions relates to are:	My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struck through , while additions are <u>underlined</u> .)
<p><i>may enter water or into a surface waterbody, including an artificial watercourse, is a permitted activity provided the following conditions are met:</i></p> <ul style="list-style-type: none"> <i>i. the discharge is not from a reticulated system;</i> <i>ii. the discharge does not originate from industrial or trade premises where hazardous substances are stored or used unless:</i> <ul style="list-style-type: none"> <i>1. hazardous substances cannot enter the stormwater system; or</i> <i>2. there is an interceptor system in place to collect stormwater that may contain hazardous substances and discharge or divert it to a trade waste system; or</i> <i>3. the stormwater contains no hazardous substances except oil and grease and the stormwater is passed through an oil interceptor system prior to discharge; and</i> <i>iii. the discharge does not contain any sewage, contaminants from on-site wastewater systems and mobile toilets, or agricultural effluent;</i> <i>iv. for discharges to a surface waterbody, the discharge does not</i> 	<p>the network and will be discharged. It would therefore be clearer to have all stormwater discharges and discharges from stormwater networks covered by one rule rather than falling under Rules 5 and 6 in specific cases. As such, the Councils seek amendment to clause 'b' as shown.</p> <p>The Councils also consider that it is appropriate to delete clause 'c' due to the proposed objectives and policies around critical infrastructure and the amendments to Rule 33 which seek for sewage overflows to also be discretionary activities.</p>	<p><i>may enter water or into a surface waterbody, including an artificial watercourse, is a permitted activity provided the following conditions are met:</i></p> <ul style="list-style-type: none"> <i>i. the discharge is not from a reticulated system;</i> <i>ii. the discharge does not originate from industrial or trade premises where hazardous substances are stored or used unless:</i> <ul style="list-style-type: none"> <i>1. hazardous substances cannot enter the stormwater system; or</i> <i>2. there is an interceptor system in place to collect stormwater that may contain hazardous substances and discharge or divert it to a trade waste system; or</i> <i>3. the stormwater contains no hazardous substances except oil and grease and the stormwater is passed through an oil interceptor system prior to discharge; and</i> <i>iii. the discharge does not contain any sewage, contaminants from on-site wastewater systems and mobile toilets, or agricultural effluent;</i> <i>iv. for discharges to a surface waterbody, the discharge does not result in:</i> <ul style="list-style-type: none"> <i>1. the production of any conspicuous oil or grease films, scums, foams or floatable or suspended materials;</i>

Specific Provisions to which the my submissions relates to are:	My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struck through , while additions are <u>underlined</u> .)
<p><i>result in:</i></p> <ol style="list-style-type: none"> 1. <i>the production of any conspicuous oil or grease films, scums, foams or floatable or suspended materials;</i> 2. <i>the rendering of freshwater unsuitable for the consumption by farm animals;</i> 3. <i>significant adverse effects to aquatic life;</i> <p>v. <i>except for the discharge of stormwater from a roof, road or vehicle parking area, the discharge is not into water within natural state waters; and</i></p> <p>vi. <i>for discharges to land, the discharge does not cause flooding, erosion, or land instability to any other person's property.</i></p> <p>b. <i>The discharge of stormwater onto or into land in circumstances where contaminants may enter water or into a surface waterbody that does not meet one or more of the conditions in Rule 15(a), excluding condition (a)(iii) is a discretionary activity.</i></p> <p>c. <i>The discharge of stormwater onto or into land in circumstances where contaminants may enter water or into a surface waterbody that does not meet Rule 15(a)(iii) is a non-</i></p>		<ol style="list-style-type: none"> 2. <i>the rendering of freshwater unsuitable for the consumption by farm animals;</i> 3. <i>significant adverse effects to aquatic life;</i> <p>v. <i>except for the discharge of stormwater from a roof, road or vehicle parking area, the discharge is not into water within natural state waters; and</i></p> <p>vi. <i>for discharges to land, the discharge does not cause flooding, erosion, or land instability to any other person's property.</i></p> <p>b. <i>The discharge of stormwater, <u>and the discharge of water from a reticulated stormwater network</u>, onto or into land in circumstances where contaminants may enter water or into a surface waterbody that does not meet one or more of the conditions in Rule 15(a), excluding condition (a)(iii) is a discretionary activity.</i></p> <p>c. The discharge of stormwater onto or into land in circumstances where contaminants may enter water or into a surface waterbody that does not meet Rule 15(a)(iii) is a non-complying activity.</p> <p>The Councils also seek that the amendments sought to Objective 6 and Policy 15 are accepted and the proposed Objective A and Policy A regarding critical infrastructure are accepted.</p>

Specific Provisions to which the my submissions relates to are:	My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struck through , while additions are <u>underlined</u> .)
<i>complying activity.</i>		
<p>Region-wide Rules</p> <p>Rule 26 – Discharges from on-site wastewater systems</p> <p>a. <i>The discharge of treated domestic wastewater, onto or into land in circumstances where a contaminant may enter water from an existing on-site wastewater system is a permitted activity provided the following conditions are met:</i></p> <p>i. <i>the on-site wastewater system had been installed and was operational prior to 1 June 2016;</i></p> <p>ii. <i>the discharge does not exceed 1,250 litres per day, averaged over a period of one month;</i></p> <p>iii. <i>the discharge consists only of contaminants normally associated with domestic wastewater;</i></p> <p>iv. <i>the on-site wastewater system is not used for the disposal of wastewater from chemical toilets;</i></p> <p>v. <i>there is no faecal contamination of any take of water for human consumption as a result of the discharge;</i></p> <p>vi. <i>there is no discharge above the soil surface, or direct discharge to</i></p>	<p>Oppose - Amend</p> <p>The Councils concerns relate to parts a), b) and d).</p> <p>On-site wastewater systems that are appropriate for treatment as a permitted activity are those which are relatively small scale that receive wastewater which is essentially domestic in character. This is the activity which is inherent in the standard referenced in part (b) of the Rule.</p> <p>The Councils seek that part a(iii) be refined to more clearly reflect this, and a similar condition be included in part b. If this change is made, "domestic" is not required in the description of the discharge in parts a, b and c and could lead to confusion in implementing the rule. The Councils seek that "domestic" be removed from each part of the rule.</p> <p>Both parts 9(a) and (b) allow the discharge of wastewater onto land. This is a recognised method of discharge from an on-site system, which should be included in the permitted activity rule. However, conditions (a)(vi) and (b)(iii) would render discharges onto land non consistent with the rule. The Councils seek changes to these conditions to enable these discharges to meet the</p>	<p>Amend Rule 26 as follows:</p> <p>Rule 26 – Discharges from on-site wastewater systems</p> <p>(a) <i>The discharge of treated domestic wastewater, onto or into land in circumstances where a contaminant may enter water from an existing on-site wastewater system is a permitted activity provided the following conditions are met:</i></p> <p>(i) <i>the on-site wastewater system had been installed and was operational prior to 1 June 2016;</i></p> <p>(ii) <i>the discharge does not exceed 1,250 litres per day, averaged over a period of one month;</i></p> <p>(iii) <i>the discharge to the system is consistent consists only of contaminants normally associated with domestic wastewater;</i></p> <p>(iv) <i>the on-site wastewater system is not used for the disposal of wastewater from chemical toilets;</i></p> <p>(v) <i>there is no faecal contamination of any take of water for human consumption as a result of the discharge;</i></p> <p>(vi) <i>there is no discharge above the</i></p>

Specific Provisions to which the my submissions relates to are:	My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struck through , while additions are <u>underlined</u> .)
<p>groundwater, surface water, an artificial watercourse or the coastal marine area, including discharge via tile drains, stormwater drains, artificial free draining areas such as soak holes and overland flow;</p> <p>vii. the inflow or infiltration of stormwater, other surface water and groundwater to the system is minimised;</p> <p>viii. the discharge does not occur within the microbial health protection zone of a drinking water supply site identified in Appendix J, or where no such zone is identified, then 250 metres of the abstraction point of a drinking water supply site identified in Appendix J.</p> <p>b. The discharge of treated domestic wastewater, onto or into land in circumstances where a contaminant may enter water from a new on-site wastewater system or a replacement of an existing system is a permitted activity provided the following conditions are met:</p> <p>i. the treatment and disposal system is designed and installed in accordance with Sections 5 and 6 of New Zealand Standard AS/NZS 1547:2012 – On-site Domestic</p>	<p>rule, while still addressing the potential environmental effects that can result from these systems.</p> <p>The Councils are concerned that Rule 26(b) which covers new or replacement systems, does not have a clearly defined volume restriction like Rule 26(a), which could result in very large systems being permitted activities, if it serves a single site.</p> <p>This lack of clarity could result in confusion in the implementation of the Rule and potentially large systems being installed as a permitted activity which could result in public health issues and is not consistent with the treatment of equivalent sized community sewerage schemes in the Plan which would require a consent under Rule 33.</p> <p>We would request that a daily volume limit be imposed as an additional condition of Rule 26b, based on the limit in the referenced NZS.</p> <p>Also, there is no definition of the minimum required distance to groundwater in 26b. This is a critical parameter in determining the suitability of the system, and we consider should be controlled to achieve permitted activity status. Whilst this is included generically in the standard, we suggest that the Plan should provide specific guidance on this aspect to achieve permitted activity status. If this condition is not achieved, then the system will require a consent through Rule 26c. If not</p>	<p>soil surface, or direct discharge to groundwater, surface water, an artificial watercourse or the coastal marine area, including discharge via tile drains, stormwater drains, artificial free draining areas such as soak holes and overland flow;</p> <p>(vii) the inflow or infiltration of stormwater, other surface water and groundwater to the system is minimised;</p> <p>(viii) the discharge does not occur within the microbial health protection zone of a drinking water supply site identified in Appendix J, or where no such zone is identified, then 250 metres of the abstraction point of a drinking water supply site identified in Appendix J.</p> <p>(b) The discharge of treated domestic wastewater, onto or into land in circumstances where a contaminant may enter water from a new on-site wastewater system or a replacement of an existing system is a permitted activity provided the following conditions are met:</p> <p>(i) the treatment and disposal system is designed and installed</p>

Specific Provisions to which the my submissions relates to are:	My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struck through , while additions are <u>underlined</u> .)
<p><i>Wastewater Management; and</i></p> <p>ii. <i>the treatment and disposal system is operated and maintained in accordance with the system's design specification for maintenance or, if there is no design specification for maintenance, Section 6.3 of New Zealand Standard AS/NZS 1547:2012 – On-site Domestic Wastewater Management; and</i></p> <p>iii. <i>the discharge does not result in wastewater being visible on the ground surface; and</i></p> <p>iv. <i>the discharge does not contain any hazardous substance.</i></p> <p>v. <i>the on-site wastewater system is not used for the disposal of wastewater from chemical toilets;</i></p> <p>vi. <i>the discharge is not within:</i></p> <ol style="list-style-type: none"> 1. <i>20 metres of any surface waterbody or artificial watercourse, excluding interception drains which benefit the on-site wastewater system;</i> 2. <i>50 metres of the coastal marine area or any natural state waters; or</i> 3. <i>50 metres of any bore or well used for potable or stock water</i> 	<p>controlled appropriately, this could lead to failing systems or systems which will contaminate groundwater, and result in public health issues. We note that this requirement was included in the July 2015 draft of the Plan but has been removed from the Proposed Plan.</p> <p>For Rule 26(d), Whilst the rule includes a limit on the depth of septage that can be applied, it does not limit the area to which the septage can be applied - part (xi) requires that the "site" must be larger than 100ha but does not limit the total area to which the septage can be applied and hence does not impose a volume limit on the quantity of septage that can be discharged as a permitted activity. The Councils seek that this be limited to a maximum area of application for year as indicated. Application to an annual area larger than this limit would be require a consent under part (e).</p> <p>The rule does not include a requirement to cover or mix in the septage. This could result in a significant amount of material being applied to land as a permitted activity, with minimal vector attraction protection being employed. This could result in a risk of stock and humans being infected by pathogens and is not consistent with the treatment of biosolids in Rule 33, which is a restricted activity requiring consent.</p>	<p><i>in accordance with Sections 5 and 6 of New Zealand Standard AS/NZS 1547:2012 – On-site Domestic Wastewater Management; and</i></p> <p>(ii) <i>the treatment and disposal system is operated and maintained in accordance with the system's design specification for maintenance or, if there is no design specification for maintenance, Section 6.3 of New Zealand Standard AS/NZS 1547:2012 – On-site Domestic Wastewater Management; and</i></p> <p>(iii) <i>the discharge does not result in wastewater ponding being visible on the ground surface; and</i></p> <p>(iv) <i>the discharge does not contain any hazardous substance.</i></p> <p>(v) <i>the on-site wastewater system is not used for the disposal of wastewater from chemical toilets;</i></p> <p>(vi) <i>the discharge is not within:</i></p> <ol style="list-style-type: none"> (1) <i>20 metres of any surface waterbody or artificial watercourse, excluding interception drains which benefit the on-site wastewater system;</i>

Specific Provisions to which the my submissions relates to are:	My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struck through , while additions are <u>underlined</u> .)
<p>supply;</p> <p>4. the microbial health protection zone of a drinking water supply site identified in Appendix J, or where no such zone is identified, then 250 metres of the abstraction point of a drinking water supply site identified in Appendix J; or</p> <p>5. 20 metres of any tile drain.</p> <p>Proposed Southland Water and Land Plan Page 56</p> <p>c. The discharge of treated domestic wastewater, onto or into land in circumstances where a contaminant may enter water from an on-site wastewater system that does not meet the conditions of Rule 26(a) or (b), is a discretionary activity.</p> <p>d. The discharge of septage onto or into land, in circumstances where a contaminant may enter water, and any associated discharge to air from an on-site wastewater system is a permitted activity provided the following conditions are met:</p> <p>i. the discharge occurs on the same landholding as the on-site wastewater system is located;</p> <p>ii. the discharge consists only of contaminants normally associated with domestic wastewater.</p>		<p>(2) 50 metres of the coastal marine area or any natural state waters; or</p> <p>(3) 50 metres of any bore or well used for potable or stock water supply;</p> <p>(4) the microbial health protection zone of a drinking water supply site identified in Appendix J, or where no such zone is identified, then 250 metres of the abstraction point of a drinking water supply site identified in Appendix J; or</p> <p>(5) 20 metres of any tile drain. Proposed Southland Water and Land Plan Page 56</p> <p>(vii) the discharge does not exceed 14,000 litres a week;</p> <p>(viii) the discharge to the system is consistent with domestic wastewater;</p> <p>(ix) the system is designed so that:</p> <p>(1) the soil beneath the soil infiltration surface is maintained as free draining to a depth of at</p>

Specific Provisions to which the my submissions relates to are:	My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struck through , while additions are <u>underlined</u> .)
<p>iii. the on-site wastewater system is not used for the disposal of wastewater from chemical toilets;</p> <p>iv. there is no faecal contamination of any take of water for human consumption as a result of the discharge;</p> <p>v. the maximum depth of septage application is 7 mm;</p> <p>vi. no other effluent is discharged to the septage application area for 28 days before and 28 days after the septage application;</p> <p>vii. the discharge onto or into land does not occur at a location where overland flow will result in contaminants reaching surface water;</p> <p>viii. the discharge is not within:</p> <ol style="list-style-type: none"> 1. 20 metres of any surface waterbody or artificial watercourse; 2. 50 metres of the coastal marine area or any natural state waters; or 3. 100 metres of any bore or well used for potable or stock water supply; 4. 100 metres of any landholding boundary; 		<p><u>least 600 millimetres; and</u></p> <p>(2) <u>the bottom of the soil infiltration surface is no less than 900 millimetres above the mean seasonal high groundwater table and any perched water.</u></p> <p>(c) The discharge of treated domestic wastewater, onto or into land in circumstances where a contaminant may enter water from an on-site wastewater system that does not meet the conditions of Rule 26(a) or (b), is a discretionary activity.</p> <p>(d) The discharge of septage onto or into land, in circumstances where a contaminant may enter water, and any associated discharge to air from an on-site wastewater system is a permitted activity provided the following conditions are met:</p> <ol style="list-style-type: none"> (i) <u>the discharge occurs on the same landholding as the on-site wastewater system is located;</u> (ii) <u>the discharge consists only of contaminants normally associated with domestic wastewater.</u> (iii) <u>the on-site wastewater system is not used for the disposal of wastewater from chemical toilets;</u>

Specific Provisions to which the my submissions relates to are:	My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struck through , while additions are <u>underlined</u> .)
<p>5. 200 metres of any school, marae, or residential dwelling other than residential dwellings on the landholding;</p> <p>6. the microbial health protection zone of a drinking water supply site identified in Appendix J, or where no such zone is identified, then 250 metres of the abstraction point of a drinking water supply site identified in Appendix J;</p> <p>ix. there is no direct discharge to groundwater, surface water, an artificial watercourse or the coastal marine area, including discharge via tile drains, stormwater drains, artificial free draining areas such as soak holes, and overland flow;</p> <p>x. the discharge does not result in any emission of odour that is offensive or objectionable at or beyond the boundary of the landholding ;</p> <p>xi. the discharge does not occur on a site less than 100 hectares in area.</p> <p>e. ...</p>		<p>(iv) there is no faecal contamination of any take of water for human consumption as a result of the discharge;</p> <p>(v) the maximum depth of septage application is 7 mm;</p> <p>(vi) no other effluent is discharged to the septage application area for 28 days before and 28 days after the septage application;</p> <p>(vii) the discharge onto or into land does not occur at a location where overland flow will result in contaminants reaching surface water;</p> <p>(viii) the discharge is not within:</p> <p>(1) 20 metres of any surface waterbody or artificial watercourse;</p> <p>(2) 50 metres of the coastal marine area or any natural state waters; or</p> <p>(3) 100 metres of any bore or well used for potable or stock water supply;</p> <p>(4) 100 metres of any landholding boundary;</p> <p>(5) 200 metres of any school, marae, or residential</p>

Specific Provisions to which the my submissions relates to are:	My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struck through , while additions are <u>underlined</u> .)
		<p>dwelling other than residential dwellings on the landholding;</p> <p>(6) the microbial health protection zone of a drinking water supply site identified in Appendix J, or where no such zone is identified, then 250 metres of the abstraction point of a drinking water supply site identified in Appendix J;</p> <p>(ix) there is no direct discharge to groundwater, surface water, an artificial watercourse or the coastal marine area, including discharge via tile drains, stormwater drains, artificial free draining areas such as soak holes, and overland flow;</p> <p>(x) the discharge does not result in any emission of odour that is offensive or objectionable at or beyond the boundary of the landholding ;</p> <p>(xi) the discharge does not occur on a site less than 100 hectares in area and is limited to a total area of XXX in any year.</p>

Specific Provisions to which the my submissions relates to are:	My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struckthrough, while additions are underlined.)								
		(xii) <u>the application is managed to reduce the risk of vector attraction.</u> (e) ...								
Region-wide Rules Rule 33 – Community sewerage schemes a. The discharge of effluent or bio-solids onto or into land, in circumstances where contaminants may enter water, from a community sewerage scheme is a discretionary activity, provided the following condition is met: i. any pond, tank or structure used to store the effluent or bio-solids prior to discharge is certified by a Chartered Professional Engineer as: 1. being structurally sound; 2. meeting the relevant pond drop level outlined below, when tested in accordance with the methodology in Appendix P. <table><tr><th>Maximum Depth of Pond (m) excluding freeboard</th><th>Maximum Allowable Pond Level Drop (mm per 24 hours)</th></tr><tr><td><0.5</td><td>1.2</td></tr><tr><td>0.5 to 1.0</td><td>1.4</td></tr></table>	Maximum Depth of Pond (m) excluding freeboard	Maximum Allowable Pond Level Drop (mm per 24 hours)	<0.5	1.2	0.5 to 1.0	1.4	Oppose – Amend The Councils do not consider that Rule 33(a)(i)(2) is appropriate and note that it would be impossible to measure drops of those levels in large outdoor oxidation ponds. The effect of the rule as currently written is that all schemes that involve oxidation ponds within the region would become non-complying activities, even if they are newly constructed, and designed in accordance with best practice. Ponds are designed to be structurally sound and the design will always provide for some pond leakage, furthermore, a Chartered Professional Engineer is highly unlikely to certify a pond to meet the standard in Rule 33(a)(i)(2) as currently drafted. The Councils consider that this rule would be difficult to comply with or assess compliance with. The type of drop test proposed by Rule 33 may be feasible with agricultural ponds – but is less so with sewage treatment ponds (which would be covered by this rule). Furthermore, the potential for leakage is part of the overall design of sewage ponds, and that the main pond may be designed allowing for some	Amend Rule 33 as follows: Rule 33 – Community sewerage schemes a. The discharge of effluent or bio-solids onto or into land, in circumstances where contaminants may enter water, <u>or into a surface waterbody</u> , from a community sewerage scheme is a discretionary activity, provided the following condition is met: i. any pond, tank or structure used to store the effluent or bio-solids prior to discharge is certified by a Chartered Professional Engineer as: 1. meeting the requirements of the New Zealand Standard <u>being structurally sound;</u> 2. meeting the relevant pond drop level outlined below, when tested in accordance with the methodology in Appendix P. <table><tr><th>Maximum Depth</th><th>Maximum</th></tr></table>	Maximum Depth	Maximum
Maximum Depth of Pond (m) excluding freeboard	Maximum Allowable Pond Level Drop (mm per 24 hours)									
<0.5	1.2									
0.5 to 1.0	1.4									
Maximum Depth	Maximum									

Specific Provisions to which the my submissions relates to are:			My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struckthrough, while additions are underlined.)												
b. <i>The discharge of effluent or bio-solids onto or into land, in circumstances where contaminants may enter water, from a community sewerage scheme that does not meet the condition of Rule 33(a) is a non-complying activity.</i>	1.0 to 1.5	1.6	leakage, the pond complex or system is likely to include secondary leakage measures and/ or containment. This means that these types of ponds would be non-complying under Rule 33, even though the potential for adverse environmental effects are negligible due to the overall design and construction. The Councils consider that Rule 33(a)(i) and 33(b) should be deleted and resource consents should be assessed on a case-by-case basis. Wastewater infrastructure in generally considered to be critical infrastructure across the country and it is not abnormal to have specific discharge rules for wastewater infrastructure which provides a more enabling framework for network overflows. The Councils consider that it would be appropriate to insert a discretionary activity rule into the SWLP which is specific to discharges from community sewage schemes to water. The Councils consider that this will be best achieved through amending Rule 33 to include reference and provisions around discharges to water from community sewage schemes. This is not only necessary to provide for critical infrastructure within the region, but also effectively provides for community sewage discharges to be covered under one rule, rather than a number of different rules. This will help assist with the overall readability of the rules in relation to community sewage schemes.	<table><tr><th>of Pond (m) excluding freeboard</th><th>Allowable Pond Level Drop (mm per 24 hours)</th></tr><tr><td><0.5</td><td>1.2</td></tr><tr><td>0.5 to 1.0</td><td>1.4</td></tr><tr><td>1.0 to 1.5</td><td>1.6</td></tr><tr><td>1.5 to 2.0</td><td>1.8</td></tr><tr><td>>2.0</td><td>2.0</td></tr></table> <p>3. [a replacement testing methodology is currently being developed by MWH and can be included in the submission prior to lodging it with Environment Sounthland]</p> <p>b. The discharge of effluent or bio-solids onto or into land, in circumstances where contaminants may enter water, or into a surface waterbody, from a community sewerage scheme that does not meet the condition of Rule 33(a) is a non-complying activity.</p> <p>c. <u>The discharge of raw sewage from a community sewage scheme, onto or into land, in circumstances where contaminants may enter water, or to surface water from existing network overflows is a discretionary activity.</u></p> <p>d. <u>The discharge of raw sewage onto or into</u></p>	of Pond (m) excluding freeboard	Allowable Pond Level Drop (mm per 24 hours)	<0.5	1.2	0.5 to 1.0	1.4	1.0 to 1.5	1.6	1.5 to 2.0	1.8	>2.0	2.0
	of Pond (m) excluding freeboard	Allowable Pond Level Drop (mm per 24 hours)														
	<0.5	1.2														
	0.5 to 1.0	1.4														
1.0 to 1.5	1.6															
1.5 to 2.0	1.8															
>2.0	2.0															
1.5 to 2.0	1.8															
>2.0	2.0															

Specific Provisions to which the my submissions relates to are:	My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struck through , while additions are <u>underlined</u> .)
		<p><u>land, in circumstances where contaminants may enter water, or to surface water from new network overflows is a discretionary activity provided:</u></p> <ol style="list-style-type: none"> 1. <u>The network is designed and operated so it does not overflow other than in wet weather situations; and</u> 2. <u>overflow points are designed and located so that discharges generate a minimum of nuisance, damage, public health risk, and ecological effects and do not cause scouring and erosion at the point of discharge.</u> <p>e. <u>The discharge of raw sewage onto or into land, in circumstances where contaminants may enter water, or to surface water not meeting rule 33 (d) is a non-complying activity.</u></p>
<p>Region-wide Rules</p> <p>Rule 34 – Industrial and trade processes</p> <p>a. The discharge onto or into land, in circumstances where contaminants may enter water, of wastewater, sludge or effluent from industrial and trade processes, other than agricultural effluent, is a discretionary activity provided the following</p>	<p>Oppose - Amend</p> <p>The current drafting of Rule 34 will result in similar issues to those for community sewerage schemes in Rule 33 for industrial and trade waste premises. For consistency, a similar change is requested to that for Rule 33 (ie delete the conditions and part b such that all such discharges are discretionary).</p>	<p>Amend Rule 34 as follows:</p> <p>Rule 34 – Industrial and trade processes</p> <p>a- The discharge onto or into land, in circumstances where contaminants may enter water, or into a surface waterbody, of wastewater, sludge or effluent from industrial and trade processes, other than agricultural effluent, is a discretionary</p>

Specific Provisions to which the my submissions relates to are:	My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struckthrough, while additions are underlined.)																								
<p>condition is met:</p> <p>i. any pond, tank or structure used to store the waste-water, sludge or effluent prior to discharge is certified by a Chartered Professional Engineer as:</p> <p>1. being structurally sound;</p> <p>2. meeting the relevant pond drop level outlined below, when tested in accordance with the methodology in Appendix P.</p> <table><tr><th>Maximum Depth of Pond (m) excluding freeboard</th><th>Maximum Allowable Pond Level Drop (mm per 24 hours)</th></tr><tr><td><0.5</td><td>1.2</td></tr><tr><td>0.5 to 1.0</td><td>1.4</td></tr><tr><td>1.0 to 1.5</td><td>1.6</td></tr><tr><td>1.5 to 2.0</td><td>1.8</td></tr><tr><td>>2.0</td><td>2.0</td></tr></table> <p>b. The discharge onto or into land, in circumstances where contaminants may enter water, of wastewater, sludge or effluent from industrial and trade processes, other than agricultural effluent, that does not meet the condition of Rule 34(a) is a non-</p>	Maximum Depth of Pond (m) excluding freeboard	Maximum Allowable Pond Level Drop (mm per 24 hours)	<0.5	1.2	0.5 to 1.0	1.4	1.0 to 1.5	1.6	1.5 to 2.0	1.8	>2.0	2.0		<p>activity provided the following condition is met:</p> <p>i. any pond, tank or structure used to store the waste water, sludge or effluent prior to discharge is certified by a Chartered Professional Engineer as:</p> <p>1. being structurally sound;</p> <p>2. meeting the relevant pond drop level outlined below, when tested in accordance with the methodology in Appendix P.</p> <table><tr><th>Maximum Depth of Pond (m) excluding freeboard</th><th>Maximum Allowable Pond Level Drop (mm per 24 hours)</th></tr><tr><td><0.5</td><td>1.2</td></tr><tr><td>0.5 to 1.0</td><td>1.4</td></tr><tr><td>1.0 to 1.5</td><td>1.6</td></tr><tr><td>1.5 to 2.0</td><td>1.8</td></tr><tr><td>>2.0</td><td>2.0</td></tr></table> <p>b. The discharge onto or into land, in circumstances where contaminants may enter water, of wastewater, sludge or effluent from industrial and trade processes, other than agricultural effluent, that does not meet the condition of Rule</p>	Maximum Depth of Pond (m) excluding freeboard	Maximum Allowable Pond Level Drop (mm per 24 hours)	<0.5	1.2	0.5 to 1.0	1.4	1.0 to 1.5	1.6	1.5 to 2.0	1.8	>2.0	2.0
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Specific Provisions to which the my submissions relates to are:	My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struck through , while additions are <u>underlined</u> .)
<u>complying activity.</u>		34(a) is a non-complying activity.
<p>Region-wide Rules</p> <p>Rule 52 – Water abstraction, damming, diversion and use from the Waiau catchment</p> <p>a. <i>Except as provided in Rules 49(a), 49(b), 49(c), 51(a), 51(b) and 51(c) and the takes authorised by Section 14(3) of the Act, any take, damming, diversion and use of water from the Waiau catchment is a discretionary activity provided the following condition is met:</i></p> <p>i. <i>the application is for the replacement of an expiring water permit pursuant to Section 124 of the Act, and the rate of take and volume is not increasing, and use of the water is not changing.</i></p> <p>b. <i>Except as provided in Rules 49(a), 49(b), 49(c), 51(a), 51(b) and 51(c) and the takes authorised by Section 14(3) of the Act, any take, damming, diversion and use of water from the Waiau catchment that does not meet the condition of Rule 52(a) is a non-complying activity.</i></p>	<p>Oppose – Amend</p> <p>The Councils (in particular Southland District Council) are concerned that this restriction on water takes in the Waiau catchment may make it difficult to service the community water schemes in Te Anau, Manapouri, Tuatapere, Orawia, and the Ohai part of the Ohai-Nightcaps-Wairio scheme areas. Rule 52 would result in any increase in take (which is expected over time due to population or as community needs change) being a non-complying activity. Furthermore, Te Anau is projected to have population growth and Rule 52 is not enabling of SDC to increase water takes for community schemes in Te Anau if necessary.</p> <p>The Councils consider that water takes for community supply should only be covered under Rule 50, and the proposed amendments from the Councils to the policies create a policy framework which supports this.</p> <p>The Councils consider that Rule 52 should be amended.</p>	<p>Amend Rule 52 as follows:</p> <p>Rule 52 – Water abstraction, damming, diversion and use from the Waiau catchment</p> <p>a. Except as provided in Rules 49(a), 49(b), 49(c), <u>50(a) and (b)</u>, 51(a), 51(b) and 51(c) and the takes authorised by Section 14(3) of the Act, any take, damming, diversion and use of water from the Waiau catchment is a discretionary activity provided the following condition is met:</p> <p>ii. the application is for the replacement of an expiring water permit pursuant to Section 124 of the Act, and the rate of take and volume is not increasing, and use of the water is not changing.</p> <p>b. Except as provided in Rules 49(a), 49(b), 49(c), <u>50(a) and (b)</u>, 51(a), 51(b) and 51(c) and the takes authorised by Section 14(3) of the Act, any take, damming, diversion and use of water from the Waiau catchment that does not meet the condition of Rule 52(a) is a non-complying activity.</p>
Section 32 Evaluation Report	Oppose - Amend	<i>Amend Objective 6 as sought in the submission</i>

Specific Provisions to which the my submissions relates to are:	My submission is that:	The decision that I would like Environment Southland to make is: (Deletions are struck through , while additions are <u>underlined</u> .)
5.3.6 Objective 6 Relevance and Overall Appropriateness	<p>The Councils consider that the relationship between proposed Objective 6 and the NPS:FM and the NZCPS has not been properly interpreted. The specific submission point on Objective 6 (contained in this submission) outlines these concerns further and seeks amendment to the Objective.</p> <p>The Councils consider that until the suggested amendments are made to the relevance section and the Objective amended, Objective 6 is not appropriate to achieve the purpose of the RMA.</p>	<p><i>above, and update the text in the “Relevance” portion of section 5.3.6 of the Section 32 Evaluation Report when assessing matters under Section 32AA to correctly express the relationship between proposed Objective 6 and the NPS:FM and the NZCPS.</i></p>
Section 32 Evaluation Report 7.6 General Discharges	<p>Oppose - Amend</p> <p>Section 7.6 of the Section 32 Evaluation Report discusses the removal of the previously Prohibited Rule for raw sewage discharges and proposes that this be replaced by a Non-Complying Rule.</p> <p>The Councils support the removal of the Prohibited Rule for raw sewage discharges, but are concerned that the proposed framework for some discharges (particularly sewage and stormwater), would result in high compliance costs for the Councils to consent some existing infrastructure.</p> <p>The Councils are concerned that the Section 32 Evaluation Report has not considered the economic implications of the proposed framework on Councils.</p>	<p><i>When determining submissions lodged in relation to the discharge of sewage and stormwater explicitly include as part of the assessment made under section 32AA consideration of the economic implications of the proposed framework.</i></p>

RURAL CITY LIVING

19 July 2016

Southland Water and Land Plan
 Environment Southland
 Private Bag 90116
Invercargill 9840

29 Bowler Avenue, Gore 9710
 PO Box 8, Gore 9740
Phone 03 209 0330
Email info@goredc.govt.nz
www.goredc.govt.nz

Submission on: The proposed Southland Water and Land Plan

Name of submitter: Gore District Council

Address for Service: Gore District Council
 PO Box 8
 GORE 9740

Attention: Paul Withers

Email: pwithers@goredc.govt.nz
 Phone: 03 209 0330

The specific provisions of the proposed plan that this submission relates to is as follows:

- Appendix G – Popular Bathing Sites

The submission of the Gore District Council is that:

The popular bathing site in the Mataura River near the Gore Bridge has been incorrectly defined as being at the Gore Bridge when in fact it is some 800 metres upstream of the Gore Bridge at the Woolwich Street reserve.

The decision the Gore District Council would like Environment Southland to make is:

To amend Appendix G to identify that the popular bathing site in the Mataura River in Gore is at the Woolwich Street Reserve, between the two blue lines shown on the image below.

**Other Matters:**

The Gore District Council wishes to be heard in support of its submission.

The Gore District Council wishes to present its own submission at any hearing held.

Dated at Gore this 20th day of July 2016

Stephen Parry
Chief Executive Officer

9. LANDLOCKED LAND EAST GORE

(Memo from Planning Consultant – 20.07.16)

- ✦ Dr Jack Phillips owns land in East Gore which is separated from McDougall Street by a small strip of land 2.01 metres wide as shown on the attached plans. This strip was created in 1963, when the adjoining land was subdivided, and ultimately transferred to the Gore Borough Council as “road reserve”. Primarily, the purpose in creating this strip was to prevent any access to McDougall Street unless approved by the Council.

Under current legislation, the provisions of the Reserves Act 1977 now apply to this strip of land and it has reserve status. There appears to be no need to now control access to the land owned by Dr Phillips, and to avoid a complex series of steps local surveyor Murray Fortune, has written on behalf of Dr Phillips asking that the Council formally dedicate the land as road reserve. Such action is cost neutral to the Council and does not imply any undertaking by the Council to undertake any construction work on the land. Rather, it enables the adjoining owner Dr Phillips, to create an access onto his land.

RECOMMENDATION

THAT for the purpose of Section III of the Reserves Act 1977, the Gore District Council hereby certifies that all that parcel of land described as an comprising:

- (i) **0.0300 ha more or less being Lot 17 DP 6429 and transferred to the Gore District Council as Road Reserve (and formally held in cancelled title CR SL5B/617),**

be dedicated as legal road.

Part Section 2 Block XXV TN OF East Gore

DP 421010 Lot 3 DP

Wentworth Street

Wentworth Street

Walker Street

Walker Street

Praxis CLEAVE

Walker Street

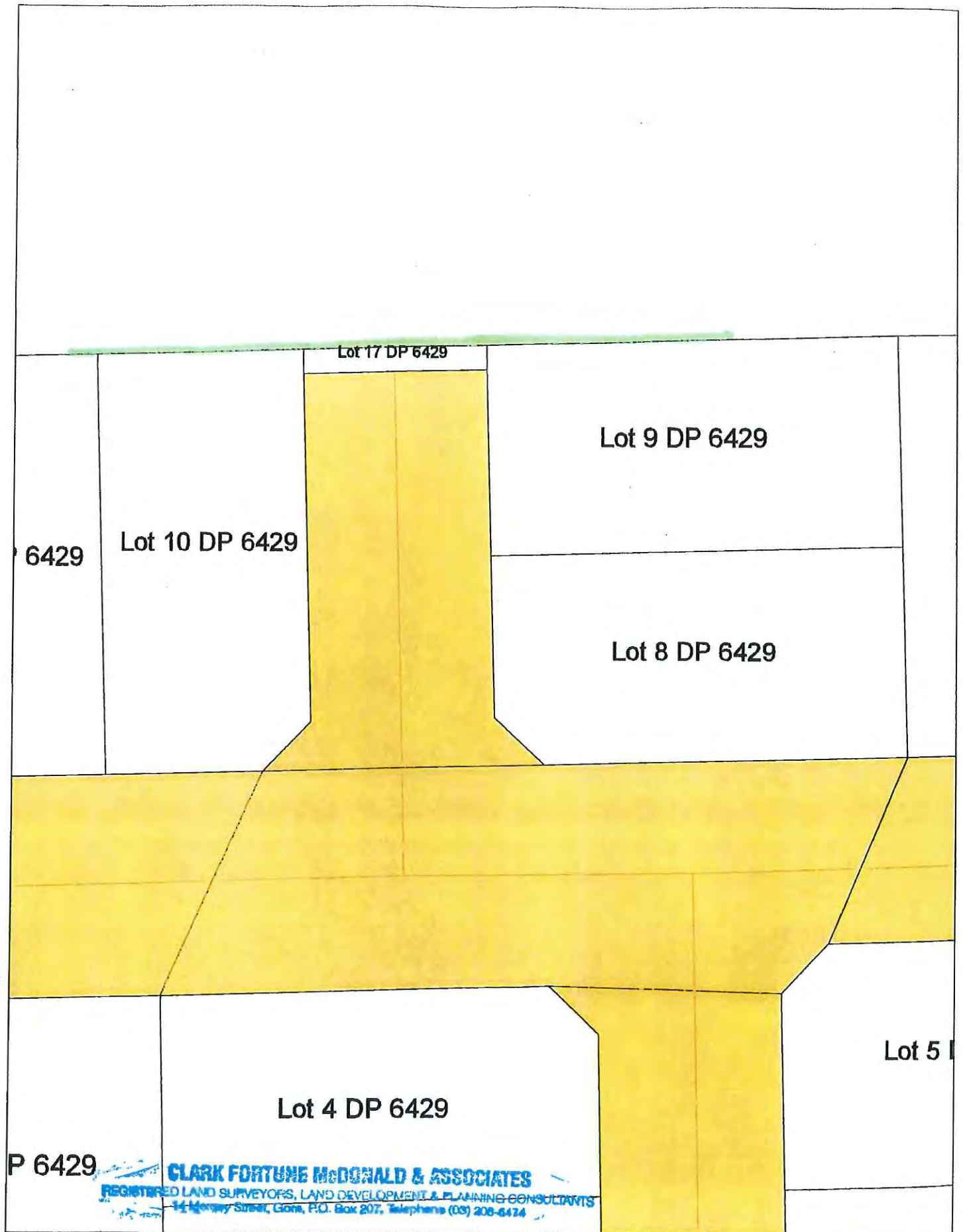
Spatial Map Print

Scale 1 : 1500

14 Mersey Street, Gore, P.O. Box 207, Telephone (03) 208-6474.

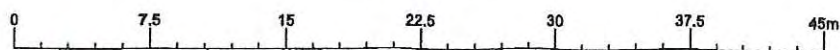
This data has been compiled from official records. Location of boundaries requires an analysis of all relevant information in compliance with the Survey Regulations. Attribute data requires an analysis of the appropriate legal record.

File: 5775
Client: Phillips
June 2016



Spatial Map Print

Scale 1:400



This data has been compiled from official records. Location of boundaries requires an analysis of all relevant information in compliance with the Survey Regulations. Attribute data requires an analysis of the appropriate legal record.



File: 5775
Client: Phillips
June 2016

10. VARIATION TO GORE PAKEKE LIONS CLUB RESOURCE CONSENT

(Memo from Planning Consultant – 20.07.16)

The Gore Pakeke Lions Club operates its recycling activities from a site on the corner of Hokonui Drive and Norton Street. This has been authorised by way of a resource consent issued in 2002. Various conditions apply to that consent.

The Lions Club has lodged an application seeking approval to amend two conditions of the 2002 consent relating to the storage of material outdoors and enabling activities to take place on the site throughout the day. All persons who could reasonably claim to be affected by the change in conditions have given their written approval, and the application is to be processed on a non-notified basis.

The Lions Club has requested that the Council waive the fee for the processing of the application. Fees are charged on a cost recovery basis and in this case costs are likely to be of the order of \$600.00 including GST.

The recycling activities of the Gore Pakeke Lions Club are of benefit to the environment in reducing waste deposited in landfills or otherwise disposed of. The wider community also benefits with any funds obtained being gifted to community groups and projects. The club members also give their time freely. In the circumstances it is considered highly appropriate to waive the fee for the processing of the current resource consent application.

RECOMMENDATION

THAT the Council waive the fee for the processing of the current resource consent application by the Gore Pakeke Lions Club, to vary the conditions of its 2002 consent.

11. TRADE WASTE BYLAW

(Memo from Policy and Planning Officer – 19.07.16)

- 1.0 The Council's Trade Waste Bylaw 2008 was automatically revoked in 2015 in accordance with section 160A of the Local Government Act 2002 due to the absence of a review. It is therefore necessary to follow the provisions of the Local Government Act 2002 in order to establish a new Trade Waste Bylaw.
- 1.1 Section 148 of the Local Government Act 2002 places specific requirements on a local authority in respect of the making of bylaws relating to trade wastes. Section 148(1) dictates that before making a Trade Waste Bylaw, a territorial local authority must send a copy of the proposed bylaw to the Minister of Health for comment. Prior to consulting the Minister however, Section 148(2) requires the Council to give two months public notice of its intention to make a Trade Waste Bylaw stating:
 - (a) the trade waste to which the bylaws will relate;
 - (b) that copies of the draft bylaws may be inspected free of charge at the place specified in the notice and
 - (c) that the territorial authority is prepared to receive and consider any representation about the bylaws made to it in writing by or on behalf of owners or occupiers of trade premises within its District at the time specified in the notice, being not less than two months after publication of the notice.
- 1.2 As some Councillors will be aware, Section 156 of the Local Government Act 2002 requires the Council to undertake a special consultative process when adopting, amending or reworking any bylaw. Section 148(7) allows the Council to use a single process in regard to a trade waste bylaw to comply with the requirements of Section 148(2) and the special consultative procedure set out in Section 156.
- 1 Enclosed with the agenda is a draft Trade Waste Bylaw prepared by the General Manager, District Assets. Attached is a Statement of Proposal for the Gore District Trade Waste Bylaw, which will be utilised as part of the consultation process required under Sections 148(2) and 156.
- 2.0 Appropriateness of the Bylaw**
 - 2.1 Section 155(2)(a) of the Local Government Act 2002 requires the Council to determine whether the proposed bylaw is the most appropriate form of bylaw.
 - 2.2 The proposed new Trade Waste Bylaw is clearer and more up to date than the Trade Waste Bylaw 2008 that has now lapsed. Matters surrounding tankered waste and the consequences of failing to comply with the bylaw

have been updated. The proposed bylaw is based on the New Zealand Standard Model Trade Waste Bylaw (NZS9201: Part 23: 2004).

- 2.3 As with all New Zealand Standards, the model bylaw has undergone an extensive review process. Its production included input from territorial authorities and representatives from a broad range of organisations. Their involvement has ensured that the proposed bylaw is aligned with current best practice.

3.0 New Zealand Bill of Rights Act 1990

- 3.1 Section 155(2)(b) of the Local Government Act 2002 requires the Council to determine whether the proposed new bylaw is inconsistent with the New Zealand Bill of Rights Act 1990.
- 3.2 The Bill of Rights Act, inter alia affirms democratic and civil rights in the areas of freedom of peaceful assembly, association and movement, which can potentially be impacted on by a bylaw.
- 3.3 It is considered that there are no obvious infringements or implications with the New Zealand Bill of Rights Act 1990 in regard to the proposed Trade Waste Bylaw.

RECOMMENDATION

THAT the Council approve the draft Trade Waste Bylaw and accompanying Statement of Proposal for public consultation, pursuant to Sections 148(2) and 156 of the Local Government Act 2002.

STATEMENT OF PROPOSAL FOR PROPOSED NEW GORE DISTRICT COUNCIL TRADE WASTE BYLAW 2016

1.0 Introduction

- 1.1 This statement of proposal is prepared pursuant to Sections 83, 86, 89, 148 and 155 of the Local Government Act 2002.

2.0 The Proposal

- 2.1 The Gore District Council Trade Waste Bylaw 2008 was automatically revoked in 2015. The proposed Gore District Council Trade Waste Bylaw 2016 will be a new Trade Waste Bylaw based on that from 2008 with improvements.
- 2.2 This statement of proposal discusses the proposed form of the new Trade Waste Bylaw and recommends a draft bylaw to undergo the special consultation process as outlined within the Local Government Act 2002. The Local Government Act 2002 requires the Council to consult with the community using the special consultative procedure prior to adopting a Trade Waste Bylaw.
- 2.3 This Statement of Proposal includes a copy of the proposed new Trade Waste Bylaw, the reasons for the proposal; and a report of the relevant determinations by the Council under Section 155 of the Local Government Act 2002.

3.0 Background

- 3.1 Section 146(a)(iii) of the Local Government Act 2002 provides that a territorial authority may make a bylaw for its district for the purposes of regulating trade wastes.
- 3.2 When the Local Government Act 2002 was passed, Parliament placed a requirement on all local authorities to review their bylaws within five years from the date of their making. Once reviewed, the bylaws are to again be reviewed within a further ten years. If a bylaw is not reviewed in accordance with the Local Government Act 2002 it is automatically revoked after two years.
- 3.3 The Trade Waste Bylaw 2008 was not reviewed within the required time frame and as such has been automatically revoked in 2015.

4.0 Legislation about the making and reviewing of Bylaws

Section 155 of the Local Government Act 2002 sets out requirements for the making and reviewing of bylaws. In addition to the general provisions about decision making, the Council, when considering a bylaw, must:

- determine whether a bylaw is the most appropriate way of dealing with the perceived problem or issue.

- determine whether the bylaw is in the most appropriate form.
- determine whether it gives rise to any implications under the New Zealand Bill of Rights Act 1990. If there are implications under that Act, the bylaw must be amended to remove any inconsistencies.

5.0 The current position in respect of trade wastes

- 5.1 Gore District Council owns and operates the sewer reticulation system in Gore, Mataura and Waikaka, which collects, treats and disposes of sewage and trade wastes from industry, businesses and other trade activities within the Gore District. Whilst the Trade Waste Bylaw 2008 has been revoked, Trade waste discharges and activities are currently still managed under the Trade Waste Bylaw 2008.
- 5.2 The Trade Waste Bylaw 2016 has been made based on the 2008 Bylaw with general clarifications and corrections as well as specific improvements to the provisions surrounding tankered waste and the consequences of not complying with the bylaw.

6.0 Purpose

- 6.1 The purpose of the new Trade Waste Bylaw is the same as the 2008 Bylaw and includes but is not limited to the following:
- (a) To ensure the protection of Gore District Council personnel and the general public;
 - (b) To protect the ability of the Gore District Council to meet the requirements of the Resource Management Act 1991 and in particular its resource consents for the discharge of treated sewage and also for any future placement of sludge and biosolids on land;
 - (c) To provide for an equitable spread of costs between domestic and trade waste discharges;
 - (d) To protect the investment in the existing and any future infrastructure, treatment plant and disposal facilities;
 - (e) To ensure compatibility between liquid, solid and gaseous phases of trade waste discharges. This compatibility can relate to such matters as meeting landfill acceptance criteria for solids and sludges and meeting resource consents for emissions to air as well as the trade waste discharge itself, into Gore District Council's sewer system.
 - (f) To ensure trade waste discharges where appropriate and practicable implement, waste minimisation and cleaner production techniques reducing the quantity and improve the quality of their trade waste discharges, thereby assisting the Gore District Council to meet the targets of the New Zealand Waste Strategy.

- (g) To foster consistency between Wastewater Authorities with respect to trade waste requirements.

7.0 Reasons for the proposal

The Council is proposing to adopt the new Trade Waste Bylaw to ensure that the Council achieves the following objectives;

- a) To minimise the reception and disposal costs to the community of trade waste sourced wastewater;
- b) To encourage and promote industry to treat trade waste onsite to an appropriate and cost effective level;
- c) To have a fair and equitable trade waste charging policy and to encourage sustainable industry activity throughout the District;
- d) To ensure that industry maintains trade wastewater discharges within agreed and consented flow and contaminate levels; and
- e) To regulate trade waste discharges in order to meet any new or existing resource consent conditions imposed on the Council.

8.0 Is the proposed Bylaw the most appropriate form of Bylaw?

- 8.1 The proposed new Trade Waste Bylaw is clearer and more up to date with current practise than the 2008 Bylaw. Matters surrounding tankered waste and the consequences of failing to comply with the bylaw have been updated. The proposed bylaw is based on the New Zealand Standard Model Trade Waste Bylaw (NZS9201: Part 23: 2004).
- 8.2 As with all New Zealand Standards, the Model Bylaw has undergone an extensive review process. Its production included input from territorial authorities and representatives from a broad range of organisations. Their involvement has ensured that the proposed bylaw is aligned with current best practice.

9.0 New Zealand Bill Of Rights Act 1990

- 9.1 Section 155(2)(b) of the Local Government Act 2002 requires the Council to determine whether the proposed new bylaw is consistent with the New Zealand Bill of Rights Act 1990.
- 9.2 The Bill of Rights Act, inter alia affirms democratic and civil rights in the areas of freedom of peaceful assembly, association and movement, which can potentially be impacted on by a bylaw.

- 9.3 It is considered that there are no obvious infringements or implications with the New Zealand Bill of Rights Act 1990 in regard to the proposed Trade Waste Bylaw.

10. Public notification and submissions

- 10.1 The Gore District Council is seeking submissions on the making of the proposed new Gore District Council Trade Waste Bylaw 2016. It is proposed to release the proposed bylaw for public comment on Saturday 6 August 2016. The consultation period will run for no less than 60 days with the consultation period closing at 4.00 pm on Friday 7 October 2016.
- 10.2 The Council will acknowledge in writing each application received. It is proposed that submitters who wish to speak regarding their submission will be contacted by the Council with the date and time of the hearing.
- 10.3 The proposed Gore District Council Trade Waste Bylaw 2016 in its draft form is attached (attachment 1).

A copy of this statement of proposal, along with the proposed bylaw is also available at the Gore District Council and from its website www.goredc.govt.nz

12. SCHEDULE OF LANDUSE CONSENTS

- ↳ A schedule of subdivision and landuse consents issued to 21 June 2016 is attached.

RECOMMENDATION

THAT the information be received.

LANDUSE & SUBDIVISION CONSENTS**As at 21 June 2016**

Reference	Accepted	Working Days	Name	Location	Description	Status
LU 2010/13	23 April 2010		C Smith	Mandeville	Rationalising airfield consents	On hold
SC 11/2012 LU 2012/06	15 May 2012		G J & A C Caughey	Rautea Street	Subdivision to create 8 lots	On hold pending further information
SC 25/2012	4 Oct 2012		GD & JM Hall Family Trust	13 Naumai Street	To create 1 new lot	On hold pending feedback from applicant on conditions
SC 02/2013	25 Jan 2013		Q W Whitehead & H J Blake	89 Charlton Road	To subdivide create 2 rural lots	On hold pending further information
LU 2015/182	16 Oct 2015	2	A Osborne	53 Strauchon Road	Renew a quarry consent	Granted 27 April 2016
LU 2016/194	9 Feb 2016	59	St John Hokonui Area Committee	35 Charlton Road	Construct and operate a St John building	Granted 4 May 2016 – limited notified consent
SC 2016/195	28 Jan 2016		C and T Leith	12 Wilden Street	Variation to subdivision consent SC 14/2012	On Hold
LU 2016/204	25 Feb 2016		GTM Developments Limited	1 Irk Street	Demolition of scheduled heritage building and redevelopment of the site	Progressing - Hearing held 20 June
LU 2016/211	8 April 2016	11	Gore Home Improvements Limited	4 Miro Street Gore	Erect a carport	Granted 22 April 2016
LU 2016/212	14 April 2016	19	Otatara Preschool Trust	11,13 and 15 Pomona Street	Establish and operate and a childcare centre	Granted 11 May 2016
LU 2016/213	21 April 2016	16	T M Brumby Ltd	43 Landslip Valley Road	Extending an existing shed	Granted 13 May 2016
LU 2016/214	29 April 2016	13	Two Degrees New Zealand Limited	High Peak	Install and operate telecommunications	Granted 17 May 2016
SC 2016/215	4 May 2016	19	P Chisholm	26B Eversfield Rise	Boundary adjustment	Granted 2 June 2016
LU 2016/216	10 May 2016	4	M McMillan	18 Waimea Valley Road	Erect a shed	Granted 13 May 2016
SC 2016/217	11 May 2016	20	T Baillie	241 McKinnon Road	Subdivision to create 2 rural lots	Granted 8 June 2016

Reference	Accepted	Working Days	Name	Location	Description	Status
SC 2016/190 part 3	23 May 2016	14	G Caughey	80 Ruia Street	Variation to subdivision consent	Granted 10 June 2016
ROW 2016/22	25 May 2016	10	Clark Fortune McDonald and Associates	10 Bridge Street	Establish a Right of Way easement	Granted 8 June 2016
LU 2016/219	1 June 2016		Gordon Baxter	64 Ruia Street	Erect a shed	On hold at applicants request while alternatives are sought for the shed position
LU 2016/220	1 June 2016		Opus International Consultants	47 Aparima Street	Construction of a wastewater utility building	On hold – pending further information
SC 2016/221	1 June 2016		Opus International Consultants	47 Aparima Street	Subdivision	On hold – pending further information
SC 2016/222	10 June 2016	8	Crichton Park Trustees	66 Crichton Park Road and 89B Kaiwera Road	Subdivision	Granted 22 June 2016
SC 2016/223	28 June 2016	12	Gore District Council	35 Charlton Road	Subdivision	Granted 13 July 2016
SC 2016/224	13 June 2016	20	B Waddell	115 Glendhu Road	Subdivision	Granted 11 July 2016
SC 2016/225	17 June 2016	13	B Hodges	148 McKinnon Road	Subdivision	Granted 6 July 2016
LU 2016/226	17 June 2016	13	B Hodges	148 McKinnon Road		Granted 6 July 2016
LU 2016/227	23/06/2016	1	Murray Ramage & Andrea Russell	13 Burns Street, Mataura	Erect a shed	Granted 24 June 2016
LU 2016/228	13/06/2016	20	Barry Waddell	115 Glendhu Road		Granted 11 July 2016
LU 2016/229	28/06/2016		Jean Copland	12 Mary Street	Install diesel heater with external storage tank	Granted 29 June 2016
SC 2016/230	11/07/2016		Dorothee Chabot	17 Albany Street	Subdivision	Progressing

Reference	Accepted	Working Days	Name	Location	Description	Status
SC 2016/231	11/07/2016		Z Andrews	676 Reaby Road	Subdivision	Progressing
LU 2016/232	18/07/2016		Gore Pakeke Lions	2 Norton Street, 117 Hokonui Drive	Commercial operation in a residential area	Progressing

13. REPORT FROM RURAL HALLS AND DOMAINS SUB-COMMITTEE

(Memo from Administration Manager – 25.07.16)

Attached is a report from the meeting of the Rural Halls and Domains Sub-Committee held on Monday 25 July 2016.

RECOMMENDATION

THAT the report be received,

AND THAT the grants listed in the report be approved for payment.

RURAL CITY LIVING

Report of a meeting of the Rural Halls and Domains Sub-Committee, held in the Mayor's office, 29 Bowler Avenue, Gore, on Monday 25 July 2016, at 4.05pm.

Present	Crs C Bolger, P Grant and D Byars
In attendance	The Administration Manager (Susan Jones) and senior Corporate Support Officer (Mrs Ceri Macleod)
Apologies	His Worship the Mayor (Mr Tracy Hicks JP) and the Chief Executive (Mr Stephen Parry) apologised for absence.

1. CONSIDERATION OF APPLICATIONS AND DISTRIBUTION OF FUNDS

A total of \$17,000 was available for distribution in the 2016/17 year. Two applications had been received from the Waimumu Te Tipua Hall Society and the Waikak Public Hall Society. History of previous funding allocations and criteria relating under the scheme had also been circulated.

Cr Bolger noted that the Waikaka Hall Society had \$40,000 in reserves. He asked if all of the funding had to be distributed.

Cr Byars said the funding was available and it should be distributed.

Cr P Grant was concerned that the Waimumu Te Tipua Hall Society was the only one in the district that did not have a rating base. It had income of \$1,100 in subscriptions and he believed since a subscription was not compulsory, would only be paid by a dedicated few. He had suggested several times that the hall should be rated for, but it had been met with resistance. He found it ironic that some people in that area believed rural ratepayers subsidised urban facilities, but in this case, it was the other way around.

The Administration Manager suggested if the Sub-Committee did not want to distribute all of the funding, an amount could be held over for another round later in the year.

Cr Bolger asked if other Hall Committees could be reminded when applications for funding opened.

RECOMMENDED on the motion of Cr P Grant seconded by Cr Bolger **THAT** a grant of \$562.85 be made to the Waimumu Te Tipua Public Hall Society Inc to upgrade its hall entrance.

RECOMMENDED on the motion of Cr P Grant, seconded by Cr Byars, **THAT** a grant of \$12,437.15 be made to the Waikaka Public Hall Society to repaint the exterior and reseal south facing windows,

AND THAT the balance of \$4,000 be carried over to a future funding round.

The meeting concluded at 4:18pm

14. LOCAL ALCOHOL POLICY - ADOPTION

(Memo from Chief Executive – 26.07.16)

As Councillors will be aware the combined Local Alcohol Policy covering the three territorial authorities in Southland was adopted on 31 May 2016. The adoption of the policy was the culmination of three years of work by the staff of the Invercargill City, Southland District and Gore District Councils and the Alcohol Regulatory and Licensing Authority determining appeals lodged to the draft policy.

- ✚ A copy of the adopted Plan is enclosed with the agenda. In order for the policy to take effect, all three participating Councils now need to resolve to make it operational.

Regulation 19 of the Sale and Supply of Alcohol Regulations 2013 requires that the Council give notice of the adoption of the Local Alcohol Policy. Notice will be given in the following newspapers:

- **Southland Times** on Saturday 20 August and Saturday 27 August 2016; and
- **Gore Ensign** on Wednesday 24 August 2016

Invercargill City Council will be meeting on 2 August 2016 and the Southland District Council on 17 August 2016. At both of these meetings the respective Councils will be invited to pass a similar resolution to what is being presented in this report.

It should be noted that Section 90(6) of the Sale and Supply of Alcohol Act 2012 requires that Policy B1 of the Local Alcohol Policy, which pertains to trade hours, take effect three months after the balance of the policy becomes operative. For the ease of implementation a date of 7 December 2016 is being nominated. This will allow for the three month implementation phase required by the Act to allow operators to adjust any changes to their trading hours required under the new policy.

Once all three Councils have resolved to make the Local Alcohol Policy operational, it will take effect and become enforceable on 30 August 2016 with the exception of trading hour rules (Policy B1) which come into force on 7 December 2016.

RECOMMENDATION

THAT the Council resolve to make the Local Alcohol Policy operational as at 30 August 2016,

AND THAT the Council resolve to make Policy B1 (relating to trade hours) of the Local Alcohol Policy operational as at 7 December 2016.

15. REPORTS FROM COUNCILLORS

1 Reports from Crs Beale, Gover and Davis are attached.

RECOMMENDATION

THAT the reports be received.

Councillor Report Template

Cr Hicks	Period Under review 29 June to 1 August 2016
<p>Meetings attend over the period:</p> <p>OAG, Wellington – Wed 29 June</p> <p>Gore Kennel Club – Thu 30 June</p> <p>Meeting, storm water drain North Terrace – Thu 30 June</p> <p>Battle of the Youth Councils – Thu 30 June</p> <p>Hokonui Highway Project – Fri 1 July</p> <p>Hokonui Culture Fest – Fri 1 July</p> <p>St James Theatre 80 years celebrations – Sat 2 July</p> <p>Professional Development Advisory group teleconference – Tue 5 July</p> <p>Future of Maitāwhiri Railway Station meeting – Wed 6 July</p> <p>Gore Women's Refuge – Wed 6 July</p> <p>Community Networking Trust Board meeting – Wed 6 July</p> <p>First Retail – Thu 7 July</p> <p>Women's Refuge morning tea and annual appeal launch – Thurs 7 July</p> <p>Roading issues – Thurs 7 July</p> <p>Cycle track Hamilton Park – Thurs 7 July</p> <p>Issue re residency application – Fri 8 July</p> <p>LGNZ webinar – Tue 12 July</p> <p>Rural Health Network – Tue 12 July</p> <p>Alliance South video conference – Tue 12 July</p> <p>LGNZ Masterclass Planning – Fri 15 July</p> <p>Hokonui Highway – Sat 16 July</p> <p>Access issues – Mon 18 July</p>	

NJF – Tue 19 July
 Earth+ Vantage Regional Research Institute, Southland Proposal – Wed 20 July
 GTAG – Wed 20 July
 Dinner with RED Ministers and senior officials re Aquaculture – Wed 20 July
 Rural SLAT monthly meeting – Thu 21 July
 A&P Joint Committee – Thu 21 July
 Milford Sound Hazard Risk meeting – Fri 22 July
 MVM Committee meeting – Fri 22 July
 Riversdale Arts opening – Fri 22 July
 LGNZ Conference – 25-26 July
 Alliance South monthly meeting – Tues 26 July
 SoRDS Governance Group Meeting – Wed 27 July
 Community Networking Trust Board meeting – Wed 27 July
 Rural Network meeting – Thu 28 July
 Environment Southland Awards – Thu 28 July
 Kids Hub – Fri 29 July
 Hokonui Fashion Awards – Sat 30 July
 Tom Campbell/Chamber/Go Retail – Mon 1 Aug
 Hokonui Highway project – several meetings

Community Groups/Key stakeholders contacted

Key issues discussed

Initiatives to be pursued in next quarter

Councillor Report Template

Cr	Beale	Period Under review	June – July
Meetings attend over the period: 28 June – Full Council Meeting 6 July – Matura railway Station working party meeting			
Community Groups/Key stakeholders contacted			
Key issues discussed			
Initiatives to be pursued in next quarter			

Councillor Report Template

Cr Anne Gover	Period Under review 28 June – 2 August 2016
Meetings attended over the period: 28 June Council Meeting 20 July Community Connections Network Meeting 21 July Counselling Centre Executive Meeting 22 July Youth Council Youth Awards Workshop 24-26 July LGNZ Conference at Dunedin 1 August Youth Council Meeting 2 August Council Meeting	

Councillor Report Template

Cr	Davis	Period Under review	16 June 2016 to 22 July 2016
Meetings attend over the period: 16-17 June Rural Provincial Meeting, Wellington 20 June 2016 Hearing, 1 Irk Street 21 June Chairs Meeting 28 June Council Meeting 21 July 2016 A & P Meeting			
Community Groups/Key stakeholders contacted			
Key issues discussed			
Initiatives to be pursued in next quarter			

EXCLUSION OF THE PUBLIC

His Worship to move that the public be excluded from the following parts of the proceedings of this meeting, namely the items as listed below.

The general subject of each matter to be considered while the public is excluded, the reason for passing the resolution in relation to each matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987, for the passing of this resolution are as follows:

<u>General Subject Matter</u>	<u>Reason for passing this resolution in relation to each matter</u>	<u>Grounds under Section 48(1) for the passing of this resolution</u>
<u>Confirmation of Minutes</u>		
Confirmation of the minutes of the ordinary meeting of the Gore District Council, held in committee, on Tuesday 28 June 2016.		
<u>Other Business</u>		
Roadside parking and storage issue	Protect the privacy of natural persons, including that of deceased natural persons.	7 (2)(a)
Venture Southland - allocation of surplus funding to significant projects	Maintain the effective conduct of public affairs arising directly from the need to protect members and staff from improper pressure or harassment.	7 (2)(f)
MVM Development Committee	Enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations.	7 (2)(i)