

LOCAL GOVERNMENT FORUM

28 September 2007

Sue Piper
Chairperson
Local Government Commission
PO Box 5362
WELLINGTON

Dear Sue,

Thank you for attending the August meeting of the Local Government Forum. Forum members appreciated the time that you and Gavin Beattie took to discuss the Operational Review of Local Government Act 2002 and Local Electoral Act 2001. The Commission has asked for its observations on the two Acts by 30 September.

I note that the review has been described as an 'operational review' and that policy issues are not in the Commission's remit. As discussed during the meeting the line between 'policy' and 'operational' issues is blurry but we believe that the intention of Parliament was to include policy issues and we are concerned that the review of the operation of the two Acts has been interpreted in a way that precludes consideration of wider policy issues.

Section 30 of the Local Government Act 2002 requires the Commission to *review the operation* of the two Acts. In the period leading up to the passage of the Local Government Act in December 2002, its proponents claimed that the Act would not result in an increase in local authority expenditure or rates. Section 30, requiring the Commission to undertake this review, was inserted in order to provide comfort that this issue would be subject to review.

Section 30 emphasises that the Commission must determine and assess:

- The impact of conferring on local authorities full capacity, rights, powers, and privileges;
- The cost-effectiveness of consultation and planning procedures; and
- The impact of increasing participation in local government and improving representation on local authorities.

The remainder of this letter discusses our views on these three issues. We have not confined our observations to 'operational' matters as we believe that the policy decisions have had definite impacts on the operation of the two Acts.

Full Capacity, Rights, Powers, and Privileges

The Forum has been critical about the impact of the Local Government Act 2002. The recent report of the Independent Inquiry into Local Government Rates has observed that the 1974 Act enabled councils to undertake a wide range of activities (and many chose to) and it considered the conferring of a ‘power of general competence’ not to have had a significant impact on local authority activities, expenditure and rates.

The Forum disagrees. The 1974 Act did allow territorial authorities to be engaged in a wide range of activities but this was not the case for regional councils (which were formerly confined to limited roles and responsibilities). Section 12 of the 2002 Act is also far more explicit than the 1974 Act in its empowerment provisions. Perhaps more importantly though section 10 of the 2002 Act has a much more activist purpose statement (i.e., requiring councils to promote the four ‘well-beings’).

We therefore continue to hold the view that the 2002 Act has encouraged many local authorities into a wider range of non-core activities and/or increased their existing non-core activities. The table below shows local authority operating expenditure since 1997. To us it seems more than coincidental that expenditure has increased at a far faster rate since around 2003 compared to preceding years – up 42% since 2003.

Year end June	\$ Million	% Increase
1997	3,252.6	+5.8%
1998	3,321.9	+2.1%
1999	3,466.4	+4.3%
2000	3,508.5	+1.2%
2001	3,608.2	+2.8%
2002	3,792.0	+5.1%
2003	4,026.4	+6.2%
2004	4,370.0	+8.5%
2005	4,746.7	+8.6%
2006	5,219.5	+10.0%
2007	5,724.3	+9.7%

Statistics New Zealand Local Authority Statistics

It is also a concern that the 2002 Act has imposed constraints on the ‘power of general competence’ which seem to be rooted in politics rather than sound public policy. For example, the section 136 limits the term of contracts with the private sector for water and waste-water services to 15 years. This is a term so short that it effectively prevents private sector investment which would help fund the projected levels of investment over the next decade without requiring such large increases in rates. Another example is the prohibition on councils charging membership fees for public libraries (section 142). We think it unlikely that councils would choose to impose library membership fees but that should be a decision for councils not a legislative prohibition. There are also restrictions on the disposal of parks (section 138)

Please refer to the attached copy of *Democracy and Performance – a Manifesto for Local Government* for more discussion on this issue (specifically section 3.3 Constraining Councils, ‘the fundamental problem’ on pages 7-10).

The cost-effectiveness of consultation and planning procedures

The Forum has been critical about weak democratic processes in local government and this includes consultation and planning processes. Please refer to the attached copy of *Democracy and Performance – a Manifesto for Local Government* for more discussion on this issue (specifically section 3.3 Constraining Councils, ‘local democracy is insufficient’ on pages 10-13).

Many of our concerns have been confirmed by the Rates Inquiry and we agree with its findings that consultation arrangements are not working for councils or the public and that planning mechanisms also need to be changed.

We strongly agree with the Rates Inquiry that there needs to be an improvement in the reporting of the level of rates and rates increases, including making it easier to make comparisons between councils, that there should be itemised rates assessments, and better reporting by councils on their performance.

The Forum also considers that more use could be made of ratepayer referenda when considering significant activities. Referenda might also help to improve participation in local government.

The impact of increasing participation in local government and improving representation on local authorities

The Forum disagrees with the premise that there has been ‘increasing participation in local government’ or ‘improved representation’. With regard to participation, the 2004 local authority elections confirmed the trend of declining voter turnout and as discussed above the consultation and planning processes have not been working well, which is further discouraging participation. As discussed above, the Forum considers that more use of referenda might help improve participation.

We also doubt whether representation has ‘improved’ despite a move towards strict population-based electoral arrangements. Representation of women and Maori does not appear to have increased significantly despite claims that the changes would help address under-representation. One member of the Forum, Federated Farmers, is very concerned about a trend of diminishing rural representation as a result of the changes and it will be making its own submission to this review.

The quality of representation does not appear to have improved much in recent years. The results of Federated Farmers’ recent Rates Report Card confirm that overall perceptions of councils are mediocre with a variation in perceptions being particularly evident. Some councils scored very well but others fared very poorly¹.

The Forum’s concerns about structure and governance and proposed solutions are discussed in *Democracy and Performance* (see section 5.6 on pages 35-39).

¹ See http://www.fedfarm.org.nz/media_release/2007_09_12.html. Federated Farmers’ submission to this Review will also include further detail on the Report Card results.

A specific issue that was raised during our meeting with you in August was the practice of some council candidates standing for mayor in order not to win the mayoralty but to boost their profile as a council candidate and gain an advantage over the competition. Prohibiting candidates from standing for more than one position is one option to address this but if that is considered too radical then increasing the deposit for mayoral candidates should perhaps be considered.

With regard to issues around participation and representation, individual Forum members have been working hard to encourage greater interest and participation in the upcoming local authority elections. For example, Federated Farmers has produced a 'Pledge Card' which it has distributed to its members² and the New Zealand Chambers of Commerce have produced a survey for individual chambers to send to council candidates³. The intention of these and other ratepayer initiatives is to improve the quality of representation and council decision-making but the Forum considers that there must also be changes to the legislative framework for local government. We believe that the vision set out in *Democracy and Performance* would provide a good basis for change.

Local Government Forum members would be interested in keeping in touch with the Commission on this review and you are warmly invited to attend our next meeting on 29 November to discuss the matters raised in this letter and progress with the Review.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Don Nicolson', with a stylized, cursive script.

Don Nicolson
Chairman

²See <http://www.fedfarm.org.nz/PDFs/Councillor's%20pledge%20card.pdf>.

³ For example, see <http://www.wgtn-chamber.co.nz/default.asp?sectionID=309>