

#### 4.2.3 Recommended enhancements in administration of local elections and polls should proceed

Arising from its inquiry into the 2004 local elections, the Justice and Electoral Committee recommended a number of amendments to enhance the administration of local elections and polls. These recommendations, also supported by the Commission in its initial report on this review, will help achieve the three principles of the Act of 'public confidence and understanding', 'fair and effective representation' and 'reasonable and equal opportunities to participate'.

The recommendations relate to elector awareness and education, the information provided to electors in candidate profile booklets and the availability of these booklets, voting methods, the quality of voting documents, the nomination process, the election timetable and providing for public assurance around the integrity of vote processing and counting systems.

We have endorsed most of these recommendations again in our review and recommend they be enacted as soon as possible.

### 4.3 Summary of findings

#### 4.3.1 Democratic local government: Where improvements need to be made

The following table summarises where we believe the operation of the Local Electoral Act could be improved in order to further advance the policy intent for achieving democratic local government.

##### Areas where operation of the Local Electoral Act could be improved

Provision	No significant concerns	Still bedding in	Needs attention
Electoral system		✓	✓
Separate Māori representation	✓		
Representation arrangements			
• basis of election	✓		
• maximum number of members			✓✓
• community boards	✓		✓
• fair and effective representation			✓✓
Representation review process			✓✓
Candidate issues			
• dual candidacy/membership	✓		✓
• eligibility	✓		✓
• affiliations	✓		✓
• deposits	✓		
• profile statements			✓✓
• nomination process			✓
• expense limits and donations	✓		
Elector issues			
• enrolment	✓		
• non-resident ratepayer franchise	✓		✓
• voting method			✓
• voter turnout			✓✓
Appointment and role of electoral officer			✓

Provision	No significant concerns	Still bedding in	Needs attention
Conduct of elections and polls			
• legislative framework	✓		✓
• election timetable			✓✓
• voting documents			✓
• candidate order on voting document			✓
• vote processing and counting			✓
• elected member issues			✓
• election data			✓
• electoral records			✓
• STV technical issues	✓		
• electoral offences			✓
• licensing trust boundaries			✓

Note: ✓✓ signifies issues we believe require priority attention

**4.3.2 How improvements should be achieved**

The following table outlines how the identified improvements would be best achieved.

**How best to improve the operation of the Local Electoral Act**

Provision	Amendments		Good practice development and dissemination
	Substantive	Technical	
Electoral system		✓	✓
Representation arrangements			
• maximum number of members	✓		
• community boards		✓	
• fair/effective representation	✓		✓
Representation review process	✓		
Candidate issues			
• dual candidacy/membership	✓		
• eligibility		✓	
• affiliations		?	
• profile statements		✓	
• nomination process		✓	
Elector issues			
• ratepayer franchise		✓	
• voting method		✓	
• voter turnout			✓
Appointment and role of electoral officer	✓	✓	

Provision	Amendments		Good practice development and dissemination
	Substantive	Technical	
Conduct of elections and polls			
• legislative framework	✓		
• election timetable		✓	
• voting documents			✓
• vote processing and counting		✓	
• elected member issues		✓	
• election data		✓	✓
• electoral records		✓	
• electoral offences	✓		
• licensing trust boundaries		✓	

## 4.4 Democratic local government: Discussion

### 4.4.1 Electoral system

The Local Electoral Act provides for local authorities and communities to choose between the first past the post (FPP) or the single transferable vote (STV) electoral system. In addition, the New Zealand Public Health and Disability Act provides that district health board elections are to be conducted in conjunction with local authority elections using STV.

These provisions have resulted in the majority of electors being faced with dual electoral systems at the 2004 and 2007 local elections. Ideally, we believe electors should not have to face dual electoral systems.

Our analysis suggests that there is a negative impact from having dual electoral systems on the same voting document. The incidence of blank and informal voting documents relates, in part, to voters having to change between the two electoral systems on one voting document rather than the nature of STV itself.

While STV has the potential to enhance representation and engagement, we do not believe it has wide enough public support at this time for it to be made mandatory. We believe more education on the advantages and disadvantages of FPP and STV is necessary before a decision is made on the preferred option.

We recommend that the legislative status quo regarding local choice of electoral system be retained at this time along with more good practice guidance on the provision of information about the two systems. In addition we recommend a technical amendment to clarify that a local authority resolution on the electoral system applies for two elections as is the case when a poll is conducted.

### 4.4.2 Separate Māori Representation

We received no submissions specifically on the provisions in the Local Electoral Act on the establishment of separate Māori wards or constituencies. In light of this and the fact that no such wards or constituencies have been established under the provisions of this Act, we recommend no change in this area.

### 4.4.3 Representation arrangements

#### *Basis of election*

We received no submissions relating to the provisions in the Local Electoral Act on the basis of election (i.e. choice for territorial authorities of at large elections, wards or a mix of both, and mandatory constituencies for regional councils). We recommend no change to these provisions.

### *Maximum number of elected members*

We considered the matter of the maximum number of members for regional councils in light of a submission proposing that the present maximum of 14 be increased to 15. No reason was given for selecting the number 15.

We are aware of concerns about achieving a balance between fair and effective representation in some regions given the impact of the +/-10% rule coupled with the statutory maximum of 14 members.

We noted the maximum number of members for regional councils was originally the same as for territorial authorities (i.e. 30) but was changed in 1992. The policy issue is whether a different maximum for regional councils can now be justified given the general empowerment of both regional councils and territorial authorities. However, there have been no calls for a return to the original policy.

In light of this and the signal such a move could send, a majority of us recommend that the maximum number of members for regional councils be increased to 16.

### *Community boards*

We recommend a new provision in the Local Electoral Act for a territorial authority to seek the approval of the Local Government Commission for disestablishment of a community board, other than as part of a representation review, when an election for that board fails to attract sufficient candidates to constitute a quorum. Such an application would be subject to prior public notification of the consequences of a failure to nominate sufficient candidates.

This recommendation arises from a situation at the 2007 elections when a community board attracted only one nomination for four positions. Consequently, without a quorum, the board was unable to meet to appoint further members.

### *Fair and effective representation*

One of the Local Electoral Act principles is achievement of 'fair and effective representation for individuals and communities'. This principle gives equal weight to both 'fair' and 'effective' representation.

There are concerns in the sector and some parts of the wider community that the objective measure for fair representation in the Act (i.e. the +/-10% rule) gives an inappropriate weighting to this requirement at the expense of effective representation of communities of interest. This issue was the subject of the majority of submissions on representation issues.

We believe that consideration needs to be given to whether the Local Electoral Act allows for achievement of an appropriate balance between fair and effective representation. We are aware, for example, of instances where rigorous implementation of the +/-10% rule has led to the division of a recognised community of interest.

We also believe that there are other factors that should be considered beyond calculating the ratio of population to members when seeking achievement of fair and effective representation. These factors include the electoral system to be used and the total number of members needed.

We identified three options to address these concerns:

- more flexibility around the requirement for fair representation
- an objective measure of effective representation
- prescribing all factors to be considered in determining representation arrangements.

We concluded that prescribing all factors to be considered in reviews has merit. This is on the basis that it will formalise what councils, to a greater or lesser extent undertake now, guided by existing Commission Guidelines. Making the decision-making process more explicit, with a legislative underpinning beyond good practice guidelines, would provide more assurance and accountability that a proper and comprehensive process has been undertaken.

We believe this approach will enhance community understanding and confidence in the process while also achieving the principle of (both) fair and effective representation.

We also believe that the Local Electoral Act should provide for both territorial authorities and regional councils:

**A30**

- more flexibility in the requirement for fair representation by allowing an 'averaging of the +/- 10% rule' for two wards/constituencies in order to achieve effective representation of communities of interest
- exceptions to the +/-10% rule based on explicitly identified grounds and subject to Commission approval.

#### **4.4.4 Representation review process**

We received several submissions relating to the role of the Local Government Commission in determining appeals or objections against local authority representation review proposals. We believe these submissions and also the recommendations of the Justice and Electoral Committee on this issue reflected concerns arising from a few determinations made by the previous Commission.

In some cases these determinations represented quite different outcomes from those proposed by the council concerned in relation to the basis of election, numbers of elected members, ward arrangements and establishment of community boards.

The current Commission believes that understanding by councils of these requirements is improving after two rounds of representation reviews under the new legislative requirements. Most undertake appropriate review processes.

We believe the recommendations in our report, particularly the prescribed steps for consideration in the review process and some more flexibility around the +/-10% rule, will further enhance both outcomes and community satisfaction with the review process undertaken.

We recommend some further procedural steps to ensure full compliance with the law and that due weight is given to council resolutions on representation proposals properly undertaken. In particular, we recommend all territorial authority proposals that do not comply with the legislation be referred to the Commission for determination, as currently occurs with non-complying regional council proposals.

We also recommend the following two technical amendments to the provisions of the Local Electoral Act:

- Provision be made for adjustments to representation arrangements after three years relating, for example, to alterations to private property boundaries or to meshblocks that impact on electoral boundaries. Such 'technical' reviews could occur without waiting for up to six years for the next comprehensive review and would be subject to Local Government Commission approval.
- An amendment to clarify that representation review determinations made under sections 19H and 19I of the Local Electoral Act may only be made in the year before a triennial election. This would prevent the situation of a council receiving a valid demand for a poll on the electoral system or on separate Māori wards/constituencies after a council determination on its representation arrangements.

#### **4.4.5 Candidate issues**

##### *Dual candidacy/membership*

Subject to certain exceptions, individuals are able to stand for and become members of multiple local authorities. This is in line with the principle that 'all qualified persons have a reasonable and equal opportunity to nominate and accept nomination as a candidate'. It also reflects the philosophy that electors are in the best position, and should have maximum freedom, to choose those candidates they wish to represent them. Other arguments supporting dual membership include it does not unnecessarily limit the talent pool.

Two exceptions on dual candidacy/membership apply relating to regional councils and territorial authorities or community boards in the same region, and territorial authorities and community boards. These restrictions appear generally to be accepted and we recommend no change.

Some concerns were raised about late 'tactical' withdrawals of a candidate from one position. These concerns include the cost in either reprinting voting documents or, if past a certain time, notifying electors of the withdrawal and possible wasted votes for a withdrawn candidate.

To address these concerns we recommend removal of the provision for voluntary retirement by candidates after the close of nominations. Current provisions relating to retirements due to death, incapacity or invalid nomination of a candidate following the close of nominations would still apply.

### *Eligibility*

Candidates have to be qualified parliamentary electors and New Zealand citizens. Candidates do not have to reside in the area for which they wish to stand.

Arising from its 2004 inquiry, the Justice and Electoral Committee recommended all candidates be required to include their principal place of residence in their candidate profile statement. This reflected the Committee's acceptance of the status quo of no residency qualification for election candidates. We endorse the Committee's recommendation which will ensure that electors are aware of the non-residency of any candidate.

We also recommend provision for an electoral officer to request proof of citizenship of a candidate.

### *Affiliations*

Some concerns were raised relating to the current definition of 'affiliation' in the Local Electoral Act. We acknowledge these concerns and recommend consideration of the practicality of providing further statutory guidance on the definition of candidate affiliation in section 57.

### *Candidate deposits*

One submission sought power for territorial authorities to have discretion to set the deposit for community board candidates. On balance we believe national consistency in the quantum of deposits should prevail and we recommend no change.

### *Candidate profile statements*

We noted from our post-election survey, the important function candidate profile statements play for electors in deciding who to vote for. Therefore, we endorse the following legislative changes recommended by the Justice and Electoral Committee to enhance candidate profile statements:

- Profile statements be published as soon as possible after the close of nominations.
- Candidates be required to include their principal place of residence in profile statements.
- Candidates be required to identify any dual candidacies in profile statements.

We also endorse the Committee's recommendations for good practice guidance on enhancing both the quality of candidate profile booklets and their accessibility.

### *The nomination process*

SOLGM made representations identifying issues arising from candidates being able to submit their nomination form, candidate profile statement and deposit separately. The Justice and Electoral Committee supported a proposal to require all three elements of a candidate's nomination to be submitted together. We endorse its recommendation in order to facilitate efficient management of the nomination process and reduce the potential for errors.

### *Candidate expense limits and donations*

The Local Electoral Act provides that candidates' electoral expenses must not exceed a certain amount based on the population of the area over which the election is held. The provisions were aimed at addressing concerns about the ability of candidates to spend unlimited amounts of money on their campaigns and the impact this has on representation and local electoral processes. The provisions support the principle that 'all qualified persons have a reasonable and equal opportunity to nominate one or more candidates and accept nomination as a candidate.'

We believe the existence of expense limits sends an important message that the relative abilities of candidates and/or popularity of their policies, should determine electoral success, not the relative resources of the candidates. The limits can contribute, as a result, to achievement of better representation of the diversity of interests of the community. We recommend no change to the present requirements.

We acknowledge that the policing of the corollary authorisation requirement can be a very time consuming activity for electoral officers and may become politicised. In response to concerns raised, we recommend consideration of the introduction of an infringement offence regime to replace the summary conviction offence provision in section 135 of the Act relating to unauthorised advertisements.

We received several submissions relating to the threshold for which electoral donations must be declared and relating to anonymous donations. We believe the present \$1,000 threshold for declaration of donations, including anonymous donations, is an appropriate balance between funding needs and transparency requirements. We recommend no change to these provisions.

#### **4.4.6 Elector issues**

##### *Elector enrolment*

Following a suggestion from the Electoral Enrolment Centre, we recommend the SOLGM electoral working party be encouraged to consider options to better synchronise the timing of the availability of preliminary electoral rolls for local elections with national enrolment update campaigns.

##### *Non-resident ratepayer franchise*

We understand it was a Government policy decision to retain the non-resident ratepayer franchise and we make no recommendation in this regard.

We did receive a number of suggestions proposing simplification of enrolment procedures for the franchise and we recommend that these be investigated including the need for enrolment itself.

We also received a proposal that there should be provision for an unpublished non-resident ratepayer roll for local elections as there is for residential electors. We recommend consideration of this proposal.

We recommend several technical amendments relating to the timing of provision of information on qualifications and enrolment procedures for the franchise, and minor necessary amendments to the Local Electoral Regulations.

##### *Voting method*

The Local Electoral Act provides for different voting methods but regulations have only been promulgated for booth and postal voting.

We note that after the initial positive impact of postal voting on voter turnout, voter turnout has more recently returned to pre-postal voting levels. It is argued by some that new initiatives are now required to boost turnout.

One possible initiative is to introduce electronic voting. We recommend that the SOLGM electoral working party and the Department of Internal Affairs commence work on issues and options relating to the introduction of electronic voting at local elections.

In response to occasional concerns about the integrity of postal voting, we recommend implementation of a Justice and Electoral Committee recommendation for a mandatory notice on voting documents relating to offences such as filling out other people's voting documents. We also recommend the SOLGM electoral working party continue to provide good practice guidance relating to postal voting processes and procedures.

##### *Voter turnout*

Overall voter turnout at local elections has gradually declined since 1989. We agree with submitters that in-depth comparative analysis is required to identify the factors impacting on voter turnout in New Zealand local authority elections. We noted that the following factors have previously been identified in the New Zealand context:

- size, geography and nature of regions and districts
- occurrence of mayoral elections
- particular local issues.

Research should include the impact of the three-week voting period. In the meantime we recommend no change to the length of the voting period, polling day or close of voting.

We endorse a recommendation of the Justice and Electoral Committee for consideration of formally assigning responsibility for promoting voter turnout and awareness, and also education on electoral systems associated with local elections, to the Electoral Commission.

As another initiative to promote voting, we also recommend the Local Electoral Act and Local Electoral Regulations provide for electronically-enhanced provision and return of voting documents for overseas voters as occurs at parliamentary elections.

We also recommend that the SOLGM electoral working party consider and promote further initiatives to promote voter turnout.

#### **4.4.7 Appointment and role of electoral officer**

Current local electoral officer arrangements reflect a model that has been in place for many years. It is based on the territorial authority electoral officer carrying out the core election tasks for all elections in the area. These arrangements worked satisfactorily in 2007.

Recommendations for change by the Justice and Electoral Committee from its 2004 elections inquiry, arose as a result of the significant delay (up to three weeks) by one service provider in announcing STV election results.

This provider used different software in 2007 and did not sub-contract out this function as it had done in 2004. Generally it met all expectations of its clients in 2007. We do not believe there is a strong case for a central government agency (new or existing) assuming direct responsibility for local elections.

We recommend no change to roles and responsibilities in the conduct of local elections including electoral officers being appointed by local authorities and then acting independently of that body. However, we do believe there is scope to enhance the efficient management of local elections and we recommend development and dissemination of further good practice guidelines on the roles and responsibilities of electoral officers.

We also recommend amendments to:

- facilitate consideration of shared service arrangements in the provision of electoral services
- effect a full prohibition on the appointment of a local authority chief executive as its electoral officer
- require local authorities to name their electoral officer in their annual report.

#### **4.4.8 Conduct of local elections and polls**

##### *The legislative framework*

Electoral officers have a high level of satisfaction with the local electoral legislative framework comprising the Local Electoral Act and Local Electoral Regulations accompanied by SOLGM's good practice code.<sup>5</sup> However, some concerns have been raised at the need to refer back and forward between the Act and the Regulations to identify the required provision.

We recommend, as part of any future comprehensive review of the Local Electoral Act, a review of the consistency of the provisions of the Act and the Local Electoral Regulations in relation to the purpose of the Act of providing for matters of detail in regulations.

##### *Election timetable*

Electoral officers seek an additional week in the election timetable after the close of nominations and before voting packs are mailed to electors. An extra week is highly desirable to address concerns about the very limited time to finalise voting documents for printing and the resulting pressure that can lead to errors in these documents. We endorse the recommendation of the Justice and Electoral Committee for an extra week in the election timetable to be achieved by moving the close of nominations to 57 days before polling day.

<sup>5</sup> Code of good practice for management of local authority elections and polls revised every three years prior to the triennial local elections

### *Voting documents*

The SOLGM electoral working party submitted that voting documents were a 'work in progress' and that it intended undertaking further work to enhance their quality. We recommend that this be encouraged and the work include consideration of prescription of separate voting documents when the two different electoral systems are being used, the ranking instructions for STV elections, and the double column format of some voting documents.

### *Order of candidates on voting documents*

We undertook analysis and research, including a review of international research, on the issue of the order of candidates on voting documents. Our analysis of results at the 2007 elections showed that the order of candidates on the voting document had an impact on election outcomes. Candidates whose names were early in the alphabet (and therefore early in the candidate profiles booklet) and early in alphabetically ordered voting documents were up to 4% more likely to be elected than those whose names were later in the alphabet.

This effect did not disappear, as might be expected, when candidates' names were listed in pseudo-random order or random order on the voting document. We believe this is possibly a result of candidates' names still being listed alphabetically in the candidate profiles booklet.

To address fully the effect of being early in the alphabet and alphabetical ordering, we believe it would be necessary to have the same order in the booklet as on the voting document. However, such a step is likely to hinder voters in finding their preferred candidates in the booklet and would be very expensive to implement as each booklet would have to be printed separately.

Our analysis also found there was a significant bias in favour of candidates in the left column of voting documents when there was more than one column of candidates. This needs to be considered in relation to the arguments for and against particular candidate order options.

We concluded that any analysis on this issue is unlikely to be definitive. A range of factors needs to be taken into account including such matters as the number of candidates, their profile or degree of name recognition, the amount of candidate information available, any dual candidacies and the electoral system.

Our review of international research also confirmed that a definitive solution to this issue is unlikely. This research is limited and is often specific to the environment in which it is conducted. Some researchers have concluded that there are significant effects on electoral outcomes from the order of candidates while others say that much of the research leading to such conclusions is methodologically flawed and fails to take into account other explanations.

Given the limited research available that could be applied to New Zealand local elections, we are not in a position to recommend one uniform candidate order. Accordingly, we recommend more analysis be carried out on a preferred order of candidates for voting documents including the option of alphabetical rotational order as identified by the Justice and Electoral Committee.

### *Vote processing and counting*

We acknowledge the considerable amount of work undertaken prior to the 2007 elections, led by the SOLGM electoral working party, on 'end-to-end' assurance for vote processing and counting systems. This work was aimed at ensuring both public and local authority confidence in these systems for future elections.

This work resulted in good practice guidelines being provided to electoral officers in time for the 2007 elections. We recommend the intent of these guidelines now be reflected in regulations by a generic requirement to achieve 'end-to-end' assurance on vote processing and counting systems used for local elections.

We also recommend implementation of the Justice and Electoral Committee recommendation for the repeal of section 79 of the Local Electoral Act. This section requires local authorities to determine whether early processing of voting documents is to take place at local elections. This practice is now adopted universally and we believe it should be left for electoral officer discretion.

*Elected member issues*

We make the following recommendations on issues relating to elected members:

- an amendment to provide that all members, whether elected unopposed or not, come into office at the same time
- no legislative change relating to the holding of by-elections
- an amendment relating to vacancies occurring on licensing trusts within 12 months of the next triennial election.

*Other issues*

We make recommendations relating to:

- accessibility of election data and the format of election results
- securing and destruction of electoral records
- the form of STV used in New Zealand and the STV calculator
- electoral offences
- alignment of licensing trust boundaries with meshblocks.

Having conducted the review of the Local Government Act 2002 and Local Electoral Act 2001, the Local Government Commission makes the following recommendations<sup>6</sup> to the Minister of Local Government.

## Local Government Act 2002

### *Responsive local government (see chapter 3 of main report)*

#### 3.1 Community outcomes

1. No change to the Local Government Act relating to:
  - a. identification of community outcomes
  - b. reporting on community outcomes.
2. Development and dissemination of further good practice guidance relating to:
  - a. the identification and application of community outcomes as well as ways to enhance community understanding of the community outcomes process
  - b. local authority monitoring and reporting on community outcomes.
3. Further work:
  - a. Consideration be given to opportunities and methods of promoting greater collaboration between local authorities in identifying community outcomes using current examples, and this include opportunities for collaboration on a regional basis promoted through the triennial agreement.
  - b. Monitoring of central government agency engagement in local community outcomes processes as part of the Department of Internal Affairs' ten-year evaluation of local government legislation.
  - c. Priority be given to ensuring the availability of relevant disaggregated statistical data to assist local authority monitoring of progress towards the achievement of community outcomes.

#### 3.2 LTCCPs

4. No change to the Local Government Act relating to:
  - a. the requirement for councils to prepare an LTCCP and have this plan in place at all times
  - b. the timing of LTCCPs
  - c. the audit of LTCCPs.
5. Amendments to the Local Government Act:
  - a. Section 102(4)(e) to require local authorities to adopt a policy on partnerships between the local authority and the private sector, for inclusion in the LTCCP, only if the local authority intends entering into such a partnership.
  - b. Deletion of section 102 (4)(f) requiring local authorities to adopt a separate policy on the remission and postponement of rates on Māori freehold land.
  - c. Extension of the auditing requirement for proposed amendments to LTCCPs, to include auditing of the amendment as finally adopted by the local authority.
  - d. Section 97(1) to require amendments of an LTCCP only for significant changes to significant activities and strategic assets.

<sup>6</sup> Explanatory note: Input was sought from various stakeholders during the course of the review. However, the Commission was not obliged to consult on its final recommendations. As such some of our recommendations are worded as "consideration be given to", as in those cases we acknowledge that further consultation is required.

- e. Section 102(6) to require amendment of an LTCCP only in the case of significant changes to funding and financial policies.
  - f. Section 141 to require that the sale or exchange of endowment land must be undertaken by way of the special consultative procedure rather than as an amendment to the LTCCP
6. Development and dissemination of further good practice guidance relating to:
- a. the preparation of LTCCPs including processes for
    - i. measuring and forecasting levels of service
    - ii. financial forecasting and projecting price increases based on inflation
    - iii. developing succinct funding and financial policies
  - b. the preparation of summaries of statements of proposal for LTCCPs
  - c. requirements for amendments to LTCCPs.

### 3.3 Annual plan

7. No change to the Local Government Act relating to the requirement for councils to prepare and adopt an annual plan for each financial year.

### 3.4 Decision-making

8. No change to the Local Government Act relating to:
- a. local authority decision-making requirements
  - b. the requirement for local authorities to adopt a policy on significance subject to section 90 (Policy on significance) being moved to follow section 79 (Compliance with procedures in relation to decisions) in the Act.
9. Development and dissemination of further good practice guidance relating to:
- a. local authority decision-making processes and procedures including in relation to a sustainable development approach
  - b. the application of the concept of significance by local authorities.
10. Further work: A review of the use of the words 'significant', 'significance' and 'significantly' in the Local Government Act including distinguishing between council assessments of these terms and when the special consultative procedure is required to be used.

### 3.5 Consultation

11. No change to the Local Government Act relating to:
- a. the consultation principles in section 82
  - b. requirements for use of the special consultative procedure.
12. Development and dissemination of further good practice guidance relating to:
- a. the range of community engagement and consultation mechanisms available and methods of evaluating their effectiveness
  - b. effective consultation practices including appropriate use of the special consultative procedure.
13. Further work:
- a. Monitoring of the effectiveness of local authority consultation practices as part of the Department of Internal Affairs' ten-year legislative evaluation.
  - b. Consideration of alternative and parallel mechanisms to newspapers for the giving of required public notices.

### **3.6 Contributions to decision-making processes by Māori**

14. No change at this time to the Local Government Act relating to provision of opportunities for Māori to contribute to decision-making processes.
15. Development and dissemination of further good practice guidance relating to local authority engagement with Māori and opportunities for contributions to decision-making.
16. Further work:
  - a. An independent audit of the effectiveness of local authority engagement with Māori undertaken jointly by the Local Government Commission and the Office of the Auditor-General.
  - b. Consideration of a central government funding strategy to advance the development of iwi management plans or similar strategic documents.

### **3.7 Annual report**

17. No change to the Local Government Act relating to the requirement for councils to prepare and adopt an annual report in respect of each financial year.

### **3.8 Financial management**

18. An amendment to the Local Government Act: section 100 be moved to follow section 102.
19. Further work: Consideration of the implications of New Zealand's transfer to International Financial Reporting Standards.

*Effective local government (see chapter 4 of main report)*

### **4.1 Empowerment of and relations between regional councils and territorial authorities**

20. No change to the Local Government Act relating to:
  - a. the requirement for local authorities to prepare triennial agreements
  - b. proposals by regional councils to undertake significant new activities.
21. Amendments to the Local Government Act:
  - a. Section 15 to require consideration of the choice of electoral system and timing of representation reviews as part of the development of all triennial agreements.
  - b. Section 16 to provide for the Local Government Commission to perform the role presently prescribed for the Minister of Local Government in relation to proposals for undertaking significant new activities.
22. Development and dissemination of further good practice guidance relating to the development of triennial agreements, including examples of the benefits of enhanced local authority collaboration and cooperation.
23. Further work: Consideration of an amendment to section 17 to remove the requirement for prior notice to be given to the Minister of Local Government of a proposed transfer of responsibilities between local authorities. If this provision is seen to be necessary the section be amended to provide for the prior notice to be given to the Local Government Commission rather than to the Minister of Local Government.

## 4.2 Special obligations and restrictions

24. No change to the Local Government Act relating to requirements for territorial authorities to undertake water and sanitary service assessments.
25. Amendments to the Local Government Act:
  - a. Repeal of the provisions placing specific obligations and restrictions on local authorities relating to the delivery of water services (i.e. section 130 and consequential repeal of sections 131 to 137 with the exception of provisions relating to restriction or stopping of the water supply) and these matters be left for local communities to determine.
  - b. Repeal of section 138 prescribing consultation on all proposals for the sale or disposal of parks.

## 4.3 Regulatory, enforcement and coercive powers

26. Amendments to the Local Government Act:
  - a. Section 160A to state expressly that a bylaw not reviewed when required is enforceable for the specified two-year period before it is mandatorily revoked.
  - b. Section 161(3) to clarify how the reference to section 17 is to work, including use of the special consultative procedure, given that the section primarily relates to transfers between territorial authorities or between regional councils.
  - c. The current bylaw-making powers for the control of liquor be extended to regional councils in respect of land owned or controlled by the regional council, along with any other powers that may be identified as a result of the recommended comprehensive review of all statutory bylaw-making powers.
  - d. Section 164(3) to identify the necessary requirements for the notice relating to the seizing and impounding of property or prescribe the form referred to in the section.
  - e. Section 168(1) to clarify whether property may be disposed of within or after six months.
  - f. An extension of the powers in section 181(1) and (2) in relation to construction of works on private land, to cover all land.
  - g. Clarification that the powers provided to local authorities in section 181 include local authority organisations.
  - h. Section 182 to confirm that powers to enter land to check water is not being wasted are able to be exercised in respect of waterworks under the control of a council-controlled organisation.
27. Further work:
  - a. A comprehensive review of all local authority statutory bylaw-making provisions to ensure consistency of approach between Acts and with a view to achieving efficient and effective administration of bylaw-making powers.
  - b. A review of the application of the provisions of section 188 relating to liability for payments in respect of private land, and consideration of a new generic provision enabling costs incurred by local authorities under various provisions to be a charge on the land concerned.
  - c. Regulations be made under section 259 as soon as practicable to prescribe breaches of bylaws that are infringement offences along with associated infringement fees.

#### 4.4 Other legislation

28. Further work: A review of the remaining provisions of the Local Government Act 1974 relating to roading, private drains, land drainage, transport activities, fire hydrants and remaining offence provisions with a view to a complete repeal of this Act.

#### 4.5 Powers of the Minister and central government

(No recommendations)

#### 4.6 Structure of local government

29. An amendment to the Local Government Act: Clause 5 of Schedule 2 to provide that structures adjoining a district form part of that district in the same way as reclaimed land.
30. Further work: A review of those territorial authority district boundaries remaining at the mean high water mark with a view to extending them to mean low water springs.

#### 4.7 Reorganisation of local authorities

31. Amendments to the Local Government Act:
- a. Clause 67 of Schedule 3 to provide for the continuation of delegations in respect of any Act, Regulations or bylaw made by a former local authority relating to an area coming under the jurisdiction of a new or different local authority.
  - b. Provision for an Order in Council giving effect to a reorganisation scheme, or a ministerial notice, to alter, with the consent of the Minister of Health, the boundary of a district health board to conform with an altered territorial authority boundary.
  - c. Clause 7 of Schedule 6 to provide that appeals against a decision of a territorial authority to not constitute a community must be lodged with the Local Government Commission within one month of the council's decision being notified.

#### 4.8 Local Government Commission

32. No change to the Local Government Act relating to the constitution, functions and membership of the Local Government Commission.

#### 4.9 Local authority governance

33. No change to the Local Government Act relating to:
- a. the constitution, role and membership of the local authority governing body
  - b. the requirement for local authorities to produce a local governance statement
  - c. local authority meeting procedures including provision for a casting vote.
34. Amendments to the Local Government Act:
- a. Clause 32B of Schedule 7 to not automatically prohibit further delegation by an officer unless such a prohibition has been agreed by the local authority or is provided in another enactment.
  - b. Section 5 to include a subcommittee appointed directly by the local authority in the definition of a committee.
35. Further work: Consideration of the option for local authorities to conduct business on-line including the possible scope for such a provision and its advantages and disadvantages.

#### 4.10 Elected member issues

36. No change to the Local Government Act relating to:
  - a. requirements for codes of conduct including in relation to enforcement provisions
  - b. arrangements for the determination of elected member remuneration.
37. An amendment to the Local Government Act to provide that, in the event of a conflict, the territorial authority declaration signed by a councillor takes precedence over a declaration in respect of that councillor's membership of a community board.
38. Further work:
  - a. A good practice template for codes of conduct for community boards be developed, either by the Department of Internal Affairs or Local Government New Zealand, and circulated to community boards for consideration.
  - b. A review of the Local Authorities (Members' Interests) Act as soon as possible with consolidation into the Local Government Act of necessary statutory provisions relating to the 'discussing and voting rule' for elected members.

#### 4.11 Community boards

39. No change to the Local Government Act relating to general provisions on establishment, membership and roles of community boards.
40. Amendments to the Local Government Act:
  - a. Schedule 6 include a new clause providing that a local authority resolution or Local Government Commission determination on establishment of a community board may determine any matter contained in section 19(2)(d) to (i) of the Local Electoral Act.
  - b. Clause 39 of Schedule 7 to expressly preclude the levying of targeted rates for the purpose of funding the administration of community boards.
41. Development and dissemination of further good practice guidance relating to relationships between territorial authorities and their community boards including encouragement for territorial authorities to consider carefully the issue of community board delegations.

#### 4.12 Council organisations and council-controlled organisations

42. No change to the Local Government Act relating to:
  - a. organisations excluded or exempted from council-controlled organisation requirements
  - b. requirements for the establishment of council-controlled organisations.
43. Further work: Consideration of alignment of statements of intent for council-controlled organisations with local authority LTCCPs.

#### 4.13 Employment

44. No change to the Local Government Act relating to local authority employment provisions including those applying to chief executives.

## Local Electoral Act 2001

*Democratic local government (see chapter 5 of main report)*

### 5.1 The electoral system for local elections

45. No change at this time to the Local Electoral Act relating to choice of electoral system for local authority elections.
46. Amendments to the Local Electoral Act:
  - a. Section 27 to provide that a local authority resolution to adopt a particular electoral system applies for the following two triennial elections.
  - b. Replace the term 'electoral system' with 'voting system' in each instance it occurs in the Act.
47. Development and dissemination of further good practice guidance relating to the provision of information to councils and communities on the advantages and disadvantages of the FPP and STV electoral systems.

### 5.2 Separate Māori representation

48. No change to the Local Electoral Act relating to establishment of Māori wards/constituencies.

### 5.3 Representation arrangements

49. No change to the Local Electoral Act relating to the basis of election for local authorities (i.e. choice for territorial authorities of at large, wards or a mix of both and mandatory constituencies for regional councils).
50. Amendments to the Local Electoral Act:
  - a. Section 19D to provide that the maximum number of members for regional councils be 16. (Note this recommendation was by majority.)
  - b. Provision for a territorial authority, subject to appropriate prior public notification, to seek the approval of the Local Government Commission for disestablishment of a community board with insufficient nominations at an election for a quorum to be formed.
  - c. Section 19V to provide more flexibility around the requirement for achieving fair representation by allowing:
    - i. the +/-10% rule to apply 'on average' between particular wards/constituencies in order to ensure effective representation of recognised communities of interest
    - ii. exceptions to the +/-10% rule for both territorial authorities and regional councils subject to Local Government Commission approval, so as to:
      1. provide effective representation for island and isolated communities of interest
      2. avoid splitting recognisable communities of interest
      3. avoid grouping communities of interest with few commonalities
      4. avoid potential barriers to participation of electors
      5. provide convenient access to local authority services
      6. allow for population forecasts to address present imbalances
  - d. A requirement for the following steps to be considered in determining representation arrangements:
    - i. identify the communities of interest of the district or region
    - ii. determine whether wards, or a mix of wards and at large, are required to achieve effective representation of the communities of interest of the

district (applies only to territorial authorities), with factors to consider including accessibility, size and configuration of the district, and the electoral system to be used

- iii. identify a range/total number of members required to effectively represent the diversity of the district or region, meet statutory obligations, and provide efficient and effective governance of the district or region
  - iv. determine the number, boundaries, and members per ward/constituency required to achieve effective representation (of groupings) of communities of interest
  - v. determine the number of members per ward/constituency required to achieve fair representation (defined by the +/-10% rule)
  - vi. determine the extent, if any, to which effective representation of a particular community of interest requires wards or constituencies to be defined, and membership distributed between them, in a way that does not comply with the requirement for fair representation
- e. Section 19V(1) to refer to "electors" not "residents"

#### 5.4 The representation review process

51. No change to the Local Electoral Act relating to general responsibilities for the conduct of representation reviews.
52. Amendments to the Local Electoral Act:
- a. Section 19R to require the Local Government Commission, when considering appeals and objections against local authority representation review proposals, to give due weight to local authority proposals that have been the subject of full consultation with the community and comply with all legislative requirements.
  - b. Section 19N to require the public notice given by local authorities of their final proposals to include the same information given in respect of their initial proposals relating to the +/-10% rule.
  - c. Section 19V to require all territorial authorities and regional councils to refer all final proposals that do not comply with the legislation to the Local Government Commission for final determination.
  - d. Provision for local authorities to make minor adjustments to ward, constituency or community subdivision boundaries after three years from their last representation review determination without the need for community consultation, but subject to Local Government Commission approval.
  - e. Sections 19H and 19I to provide that local authorities may only make representation determinations in the year preceding triennial elections.

#### 5.5 Candidate issues

53. No change to the Local Electoral Act relating to:
- a. dual candidacy for and membership of local authorities
  - b. candidate deposits
  - c. the regime of electoral expense limits for candidates at local elections
  - d. receipt and declaration of donations at local elections.
54. Amendments to the Local Electoral Act:
- a. Implementation of the recommendation of the Justice and Electoral Committee for an amendment to section 61 requiring that dual candidacies be identified in candidate profile statements (not to be included in the 150 word limit).
  - b. Repeal of section 69 and consequential amendments to sections 70 and 71 to remove provision for the voluntary retirement of a candidate following the close of nominations.

A44

- c. Implementation of the recommendation of the Justice and Electoral Committee for an amendment to section 61 requiring that all candidates include their principal place of residence in their candidate profile statement (not to be included in the 150 word limit).
  - d. Section 55 to provide for electoral officers to require proof of citizenship of a candidate.
  - e. Implementation of the recommendation of the Justice and Electoral Committee for amendments to sections 55 and 61 to require all nomination documentation (i.e. nomination form, candidate profile statement and deposit) to be submitted together.
55. An amendment to the Local Electoral Regulations: Implementation of the recommendation of the Justice and Electoral Committee for an amendment to regulation 29 requiring early publication of candidate profile statements.
56. Development and dissemination of further good practice guidance relating to the layout and readable type face of candidate profile statements and their availability on request in accessible formats.
57. Further work:
- a. Consideration of the practicality of providing further statutory guidance on the definition of candidate 'affiliation' in section 57.
  - b. Consideration of the introduction of an infringement offence regime to replace the summary conviction offence provision in section 135 relating to unauthorised advertisements.

## 5.6 Elector issues

58. No change to the Local Electoral Act relating to:
- a. provision for local discretion on choice of voting methods
  - b. the length of the voting period, polling day or close of voting until research indicates such changes are likely to impact positively on voter turnout.
59. Amendments to the Local Electoral Act:
- a. Section 39(1)(b) to identify an earlier date by which councils are to provide, with their rates assessments/notices, information on qualifications and enrolment procedures for the non-resident ratepayer franchise.
  - b. implementation of the recommendation of the Justice and Electoral Committee for an amendment to section 75 requiring a statement to be included on voting documents relating to offences under sections 123 and 124.
  - c. Provision for electronically-enhanced provision and return of voting documents for overseas voters as occurs at parliamentary elections.
60. Amendments to the Local Electoral Regulations:
- a. The term "rateable" to be substituted by "rating" on the two occasions it occurs in regulation 16(2).
  - b. Schedule 1 to specifically include "trusts" as bodies for which persons may be eligible to be non-resident ratepayer electors.
61. Development and dissemination of further good practice guidance relating to:
- a. postal voting processes and procedures including the integrity of this voting method
  - b. initiatives to promote voter turnout.
62. Further work:
- a. The SOLGM electoral working party be encouraged to consider options for better synchronisation in the timing of the availability of preliminary electoral rolls for local elections with national enrolment update campaigns.

- b. The SOLGM electoral working party be encouraged to undertake work on options relating to the need for enrolment on the non-resident ratepayer electoral roll and/or the need for triennial confirmation of enrolment and if enrolment is found to be necessary, simplification of the prescribed enrolment form in the Local Electoral Regulations.
- c. Consideration of provision for compilation of unpublished non-resident ratepayer rolls for local elections.
- d. The SOLGM electoral working party and the Department of Internal Affairs commence work on issues and options relating to the introduction of electronic voting in local elections.
- e. Consideration of provision for an Order in Council to move polling day for all local authorities or for a particular local authority, on advice provided by the Minister of Local Government.
- f. Consideration of formally assigning to the Electoral Commission responsibility for voter turnout and awareness, and education on electoral systems associated with local elections.

## 5.7 Appointment and role of the electoral officer

- 63. No change to the Local Electoral Act relating to roles and responsibilities in the conduct of local elections including electoral officers being appointed by local authorities and then acting independently of that body.
- 64. Amendments to the Local Electoral Act:
  - a. Sections 16 to 19 to provide that all electoral officers are responsible for all electoral tasks in the first instance.
  - b. Section 14 to provide a full prohibition on the appointment of a local authority chief executive as that authority's electoral officer.
- 65. Development and dissemination of further good practice guidance relating to:
  - a. the role of the electoral officer including job profiles and person specifications
  - b. contracts for the provision of services
  - c. job training including the option of certification of electoral officers.

## 5.8 Conduct of local elections and polls

- 66. No change to the Local Electoral Act relating to:
  - a. the holding of by-elections
  - b. the New Zealand method of STV
  - c. the publishing of the source code for the STV calculator or any other STV counting program used in local elections
  - d. the effect of an irregularity on the result of an election or poll.
- 67. Amendments to the Local Electoral Act:
  - a. Implementation of the Justice and Electoral Committee recommendation for an extra week in the election timetable by section 5 providing that nomination day shall be the 57th day before polling day.
  - b. Implementation of the Justice and Electoral Committee recommendation for the repeal of section 79 requiring local authorities to determine whether early processing of voting documents is to take place at local elections, and the matter be left for electoral officer discretion.
  - c. Section 115 to provide that all members, whether elected unopposed or not, come into office at the same time i.e. the day after declaration of the result of the election.

68. An amendment to the Local Electoral Regulations: Provision of a generic requirement to achieve end-to-end assurance on vote processing and counting systems used for local elections.
69. Further work:
- a. As part of any future comprehensive review of the Local Electoral Act, a review of the consistency of the provisions of the Act and the Local Electoral Regulations in relation to the purpose of the Act to provide for matters of detail in regulations.
  - b. The SOLGM electoral working party be encouraged to undertake further work to enhance the quality of voting documents including consideration of:
    - i. prescription of separate voting documents when the two different electoral systems are being used
    - ii. the ranking instructions for STV elections
    - iii. the double column format of some voting documents.
  - c. More analysis be carried out on a preferred order of candidates for voting documents including the option of alphabetical rotational order.
  - d. The SOLGM electoral working party be encouraged to consider the availability and accessibility to the public of election data, including electronic data, and also the format of official election results as presently prescribed in the Local Electoral Regulations.
  - e. Consideration be given to appropriate provisions for the securing and destruction of all electoral records, including electronic records, following local elections including the issue of access to records for research purposes.
  - f. Consideration of amendments to the Local Electoral Act to:
    - i. make it an offence to obstruct the electoral officer in the conduct of his or her duties under the Act
    - ii. require the electoral officer to maintain order in official election places and provide for the arrest or removal of any person suspected of committing or attempting to commit an offence under this Act, or willfully obstructing the proceedings or causing a disturbance, or conducting themselves in a disorderly manner.
  - g. Consideration of a new regulation to regulate the conduct of scrutineers following the close of voting at local elections.
  - h. A comprehensive review of all offence provisions under the Local Electoral Act taking into account the voting methods currently or likely to be used at future local elections.

## Other legislation

70. The Local Government Act, the New Zealand Public Health and Disability Act, and the Sale of Liquor Act to require local authorities to name their electoral officer in their annual report.
71. The Sale of Liquor Act to provide that a vacancy occurring on a licensing trust within 12 months of the next triennial election either be filled by an appointment or left vacant.
72. The Sale of Liquor Act to require licensing trust boundaries to align with meshblocks and to provide for the Local Government Commission to consider and determine proposals to alter licensing trust boundaries to assist the efficient administration of elections.

NB: HNZZ TO UPDATE

**Letter of Offer**

**Housing New Zealand**

Building a better future

02 September 2008

The Chief Executive  
Waitakere City Council  
Private Bag 93 109  
Henderson  
**Waitakere**

**National Office Auckland**  
Level 4, AMI Building, 15 Osterley Way  
Private Bag 76913, Manukau 2240  
Tel 0-9-261 5000, Fax 0-9-261 5290  
DX: EX 10982  
www.hnzc.co.nz

Dear Sir,

Housing New Zealand Corporation, in order to assist and promote the growth of social housing delivered by Local Government Authorities, is pleased to confirm the availability of the following facilities, on the following terms:

**Lender: Housing New Zealand Corporation (the Corporation)**

**Borrower: Waitakere City Council (the Council)**

**THE FACILITIES**

**THE LIMITS**

Housing Innovation Fund Local Government Modernisation Loan

\$ 1,500,000.00

**TERMS AND CONDITIONS OF YOUR FACILITIES**

**Conditions**

- The facility will be advanced solely for the purpose of modernising and reconfiguring 85 units of accommodation for housing older adults in the following Council villages:
  - "Westview Village" – 100 West Coast Road, Glen Eden, Waitakere City
  - "North Karaka Court" – 19 Karaka Street, New Lynn, Waitakere City
  - "Kaumatua Village" – 11 Kaumatua Place, Te Atatu, Waitakere City
- The Chief Executive is to provide a certificate to confirm that the Council has complied with the Local Government Act (LGA) 2002 in connection with this transaction. The certificate explicitly states that the Chief Executive Officer of the Council can sub-delegate authority to appropriate officers to manage the practicalities of the implementation in compliance with the LGA 2002.
- Plans for the final designs of the development are to be provided to the Corporation.
- Fixed price contract(s) for the entire development are to be obtained by the Council and provided to the Corporation prior to the drawdown of funds.
- Details of the successful tender(s) for the development are to be provided to the Corporation and are subject to the Corporation's approval.
- Applicable resource and building consents for the development are to be obtained prior to any drawdown of funds with confirmation to be provided to the Corporation.
- The facility of \$1,500,000.00 for the development is to be drawn on a progress payment basis, as per the policy requirements of the Corporation.
- The development is required to be completed within 12 months of the first drawdown of the loan or as extended with the approval of the Corporation, such approval not to be unreasonably withheld.
- Audited annual financial accounts are to be provided to the Corporation within five months of the Council's end of year financial date.
- The development is to be subject to an annual review by the Corporation during the term of the lending.

**A48**

## SCHEDULE OF FACILITIES

Subject to the above conditions being met, the Facilities will be subject to the following terms.

### HOUSING INNOVATION FUND LOCAL GOVERNMENT MODERNISATION LOAN

**Term:** 20 Years

**Interest Free Period:** 20 Years (subject to the repayment conditions expressed below).

**Repayment:** The Loan documentation will record a repayment condition to the effect that the Loan shall become repayable, together with interest calculated as set out below, if at any time, within 20 years of the date on which the Loan is drawn down by the Council, the Council either abandons the housing project or elects not to complete it and does not re-apply the funds for another social housing project approved by the Corporation, or the Council makes a decision pursuant to the relevant provisions of the Local Government Act 2002 to alter its long-term council community plan in a manner that affects the provision by the Council of social housing, or to otherwise withdraw or significantly alter its investment in joint funded social housing ("**repayment events**"). If any of these repayment events occurs, the Council will upon written demand by the Corporation, pay to the Corporation on the date specified in the demand the aggregate of:

- The principal amount of the Loan; and
- An amount, as interest on the Loan, calculated at an interest rate reasonably determined by the Corporation, for the period from that event up to, and including, the date which is 20 years from the date on which the loan was drawn down.

For the avoidance of any doubt, a repayment event will not arise if the Council

- proposes to make significant changes to, or introduce new operational policies, procedures and practices in relation to the housing for older adults villages that would require the use of the special consultative procedure as set out in the Local Government Act 2002 to properly bring about such changes, and that the housing will remain as social housing, and,
- the consent of the Corporation (such consent not to be unreasonably withheld) is obtained before any such changes are made.

For the purposes of this loan offer "**social housing**" is defined as the provision of housing in circumstances where the asset and/or income levels of the residents are such that they would not be able to readily obtain access to suitable and equivalent accommodation in the open market"

Upon the expiration of the Term, without the occurrence of a repayment event, the Corporation will forgive repayment of the Loan, or so much thereof as remains owing and unpaid at that date, and upon written request from the Council, will provide a written acknowledgement to that effect and will execute a registerable discharge of all securities given by the Council in respect of the Loan.

**Security:**

A first charge registered mortgage, in favour of the Corporation, will be taken over all three properties where these facilities are being utilised.

This security will secure all of the Council's financial obligations to the Corporation and will contain a Property Law Act Section 80A(2) priority of \$2,250,000.00.

**Insurance:**

The Council will be required to insure each property for full replacement value (or as agreed by the Corporation) and otherwise on terms acceptable to the Corporation. The interest of the Corporation must be noted on all insurance policies.

**Right of first refusal:**

If at any time before 30 June 2037 the Council decides to sell all or any part of the properties referred to on page 1 of this letter of offer ("the property"), it will first offer to sell the property to the Corporation or to a social housing provider approved by the Corporation on the terms set out below.

The Council will prepare and submit to the vendor a signed unconditional agreement for sale and purchase setting out the price and terms upon which it wishes to sell the property. That agreement may be subject to a condition that the agreement will only remain open for acceptance for a period of not less than 30 working days from the day upon which it is submitted to the Corporation.

If the Corporation does not wish to accept the offer in any circumstances it must notify the Council at the earliest opportunity and the Council will be released from any further obligation under this clause.

If the Corporation wishes to accept the offer but is unhappy with the price or the terms of the offer, the parties will negotiate in good faith to reach agreement within the 30 working day period referred to above

If the parties cannot agree within 30 working days the Council will be free to sell the property on the open market to an arms length purchaser, but may not accept an offer for the sale of the property at a price or on terms which are less favourable to the Council than those contained in the offer made to the Corporation without first making an offer to sell to the Corporation on that basis and allowing the Corporation 10 working days within which to accept the offer. If this offer is not accepted by the Corporation, the Council will be released from any further obligation under this clause.

**Availability Period:**

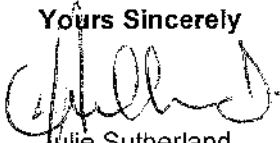
- This offer is open for acceptance until 5.00pm on the 20<sup>th</sup> September 2008.
- The initial draw-down of the above facilities must be drawn within 150 days of the acceptance of this letter of offer.

If the terms and conditions of this letter of offer are acceptable to the Council please sign and return the duplicate copy. Funds will be made available once all legal documentation has been signed, identity details confirmed and all conditions described in this letter and in the legal documents have been satisfied unless, prior to draw-down, an event occurs or information becomes known to the Corporation which, in its opinion, might materially affect the Council's facilities, creditworthiness, the creditworthiness of any guarantor or the basis on which the Corporation agreed to enter into these facilities.

Please note that the above offer is not exhaustive or complete, and is subject to the full terms and conditions of the Corporation's loan and security documents. In the event of any conflict between this offer and the terms and conditions of the loan and security documents, the loan and security documents will apply

Should you have any questions regarding this offer please contact me on (09) 261 5206.

**Yours Sincerely**



Julie Sutherland  
**Project Manager**  
**Housing Innovations**

ASI

---

---

**Acceptance**

We accept the facilities offered on the terms and conditions contained in this letter of offer.

Signed by the Borrower **WAITAKERE CITY COUNCIL**

By its Chief Executive Officer \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*This Letter of Offer must be legally signed in accordance with the constitution/mandate of the Waitakere City Council.*

Date of acceptance: \_\_\_\_\_

Solicitor's Name: \_\_\_\_\_

Solicitor's Firm: \_\_\_\_\_

Solicitors Address: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

AS2