

TERMS OF REFERENCE: NEW ZEALAND PRODUCTIVITY COMMISSION INQUIRY

Local Government Regulatory Performance

Context

1. The Government has launched '*Better Local Government*', an eight point reform programme to improve the legislative framework for New Zealand's councils. It will provide better clarity about councils' roles, stronger governance, improved efficiency and more responsible fiscal management. These local government reforms are part of the Government's broader agenda. We are rebalancing the New Zealand economy away from the increased public spending and debt of the previous decade. We are building a more competitive and productive economy. This requires that both central and local government improve the efficiency of delivering public services.
2. Local government, at both regional and territorial level, is involved in many regulatory roles covering, for example, building, resource management, food safety, and alcohol. There is no consistent approach regarding what regulatory functions are most effectively achieved nationally or locally. There is also a concern in local government that functions are allocated to councils without adequate mechanisms for funding. The issue of what is best regulated at the national and local level is also important to the private sector which, through rates, taxes and fees, funds both. There are opportunities to improve New Zealand's productivity through a more efficient regulatory framework.

Scope

3. Having regard to the context outlined above, the Commission is requested to undertake an inquiry into opportunities to improve regulatory performance in local government. For the purposes of this inquiry, the Commission should:

Regulatory Functions of Local Government

- (a) identify the nature and extent of key regulatory functions exercised by local government;
- (b) perform a stocktake to identify which local government regulatory functions are undertaken on the direction of central government and which are undertaken independently by local government;
- (c) develop principles to guide decisions on which regulatory functions are best undertaken by local or central government;
- (d) identify functions that are likely to benefit from a reconsideration of the balance of delivery between central and local government, or where central government could improve the way in which it allocates these functions to local government;

Improving Regulatory Performance in Local Government

4. Taking into account the principles developed in point (c) above:
 - (e) assess whether there is significant variation in the way local government implements its regulatory responsibilities and functions, and the extent to which such variation is desirable. For example whether variation reflects differences in local resources or preferences or insufficient direction from central government;

- (f) identify opportunities for both central and local government to improve the regulatory performance in the local government sector. For example how to overcome any key capability, resourcing, or regulatory design constraints;
- (g) examine the adequacy of processes used to develop regulations implemented by local government and processes available to review regulations and regulatory decisions made by local government; and
- (h) recommend options to allow for the regular assessment of the regulatory performance of the local government sector, for example whether common performance indicators can be developed to assess performance.

Other matters

- 5. Where possible, the Commission should seek to quantify relevant costs and benefits of recommendations it makes in the inquiry. The Commission should prioritise its effort by using judgement as to the degree of depth and sophistication of analysis it applies to satisfy each part of the Terms of Reference.
- 6. The inquiry should not make recommendations that would directly affect representation or boundary arrangements for local government.

Consultation Requirements

- 7. The Commission should take into account existing and ongoing work in this area to avoid duplication, including the Government's eight point reform programme, resource management reviews, the Local Government Rates Inquiry, and the Auditor General's work on performance management.
- 8. In undertaking this inquiry the Commission should consult with key interest groups and affected parties. To ensure that the inquiry's findings provide practical and tangible ways to improve regulatory performance, the Commission should work closely with Local Government New Zealand, the wider local government sector and government agencies with regulatory regimes that affect local government.

Timeframe

- 9. The Commission must publish a draft report and/or discussion paper(s) on the inquiry for public comment, followed by a final report, which must be submitted to each of the referring Ministers by 1 April 2013.

Hon Bill English, Minister of Finance
Hon David Carter, Minister of Local Government
Hon John Banks, Minister for Regulatory Reform